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Testimony of various witnesses, including representatives from a paralegal training institute, paralegals, educators, lawyers, and bar associations, respond to the assertions that because they save from one-quarter to one-half of the cost of a lawyer's time, paralegals can be a major factor in lowering the cost and increasing the availability of legal services, against the argument that paralegals merely make more money for lawyers. The organized bar's effort to "safeguard the public" by controlling the accreditation of paralegal training programs is reviewed. (MJM)

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PARALEGAL ASSISTANTS

HEARING

BEFORE THE

SUBCOMMITTEE ON
REPRESENTATION OF CITIZEN INTERESTS

OF THE

COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE

NINETY-THIRD CONGRESS

SECOND SESSION

ON

PARALEGAL ASSISTANTS

JULY 23, 1974

Printed for the use of the Committee on the Judiciary

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PARALEGAL ASSISTANTS

TUESDAY, JULY 23, 1974

U.S. SENATE,
SUBCOMMITTEE ON REPRESENTATION OF CITIZEN INTEREST
OF THE COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10:15 o'clock a.m. in room 1318, Dirksen Senate Office Building, Senator John V. Tunney presiding.

Present: Senator Tunney.

Also present: Jane Frank, Neil Levy, Joseph Dawahare, W. Dean Drake.

Senator TUNNEY. The hearing will come to order.

OPENING REMARKS OF HON. JOHN V. TUNNEY, U.S. SENATOR FROM CALIFORNIA, CHAIRMAN, SUBCOMMITTEE ON REPRESENTATION OF CITIZEN INTEREST

Today, the Judiciary Subcommittee on Representation of Citizen Interest begins hearings on recent developments in paralegal assistance.

In recent years, the term "paralegal" has been applied to legal assistants with various amounts of training—from secretarial skills to college or graduate degrees—who perform law-related tasks, such as legal research, interviewing clients, investigating claims, processing legal documents, and assisting in the preparation for trial, which do not necessarily require an attorney's time or expertise. Paralegals are less often used in court-related work because statutes in most States forbid the unauthorized practice of law, and bar association rules limit the use of nonlicensed personnel.

Today, we will hear from a paralegal training institute, paralegals themselves, educators, lawyers, and bar associations. We will test the assertion that because they save from one-quarter to one-half of a lawyer's time, paralegals can be a major factor in lowering the cost and increasing the availability of legal services, against the argument that paralegals merely make more money for lawyers. We will learn of the organized bar's efforts to "safeguard the public" by controlling the accreditation of paralegal training programs, a move which some see as narrow-minded self-interest.

Two premises underlie the work of this subcommittee to date. The first is that the average American citizen is frequently faced with an unfulfilled need for effective legal representation. The second is that the high cost and traditional modes of practice operate to bar many citizens from access to needed representation. As part of the subcommittee's ongoing investigation into ways to lower the cost and improve the delivery of legal services, we have already studied the role of the organized bar in serving the public, developments in prepaid legal services plans, and the use of small claims courts and arbitration to resolve minor legal disputes. The use of paralegal assistants is another important component of this investigation.

During the last 5 years, paralegals have gained widespread acceptance. Because the definition of a paralegal is still imprecise, accurate statistics on their numbers are unavailable; estimates run as high as 50,000. The U.S. Civil Service Commission estimates that the Federal Government alone employs 30,000 nonlawers in law-related job classifications. The OEO-funded legal services program uses over 1,000 paralegals in 127 legal aid offices. One training institute in Philadelphia has graduated 1,000 students and placed 95 percent of them in private law firms.

Numerous training programs across the country have developed. There are now more than 50 formal training programs in the United States, most of which are nonprofit affiliates of colleges and universities. Many public agencies and private law firms have their own training programs. At least five national and numerous local organizations of paralegals have sprung up across the country. Many of there organizations will be submitting statements for the record of this hearing.

These developments have not gone unnoticed by the organized bar. The American Bar Association, in 1968, went on record in support of the training and employment of legal assistants. In 1972, the ABA's house of delegates directed a Special Committee on Legal Assistants to develop standards for accrediting formal programs for the training of paralegals.. These guidelines were adopted by the ABA house of delegates 1 year later, and the special committee will seek authority at the ABA annual meeting in Honolulu this August to implement them.

Some critics charge that bar control of the training programs will defeat the impact of paralegals as a cost-lowering device. What is needed in the legal profession, they argue, is more competition with allied professions such as legal assistants. A recent report of a Special Task Force to the Secretary of HEW on National Policy and Higher Education expressed substantial opposition to control of allied professions by professional groups, and stated:

> The rush toward professionalization * * * has often been at the expense of equitable access to careers, consumer protection, and individual opportunity for advancement * * *. Now while it is still feasible, the Federal Government must consider how it can assist in the encouragement of a more open and flexible educational community.

On the State level, there has been some activity—with the State of California in the forefront. The "Certified Attorneys' Assistants Act" has now passed the California State Assembly and awaits State senate action. In its present form, it sets up a broadly representative board composed of members of the State bar, persons engaged in paralegal training, paralegals themselves, and private citizens to establish the criteria for licensing individual paralegals and accrediting training programs.

Like the dental technical, the paramedic, and the architect assistant, the paralegal may improve the quality of professional service while lowering their costs. Whether this development fulfills its potential will depend on the organized bar, lawyers, educators, paralegals, legislators, and concerned members of the public.

Our first witness is Mr. Paul Shapiro, director of the Institute for Paralegal Training, Philadelphia, Pa., who is accompanied by Phyllis Johnson, graduate of the institute.

Mr. Shapiro, is Miss Johnson here?

Please come forward.

I would suggest that you try to limit your remarks to about 15 minutes. The Judiciary Committee will have to have a quorum in order to go into executive session, and I must attend. I would imagine that that would be about 15 minutes.

[Discussion off the record.]

STATEMENT OF PAUL SHAPIRO, ESQ., DIRECTOR, INSTITUTE FOR PARALEGAL TRAINING, PHILADELPHIA, PA.

Mr. SHAPIRO. Senator Tunney and members of the subcommittee and staff, before beginning my presentation, I would like to thank you for inviting me to present my views on the subject of paralegals.

The urbanization of our society, which tends to complicate relationships, the high degree of government involvement in our lives, and other factors expose us all to law and regulation which inevitably lead us to need legal services, whether we be the largest business corporation, the most humble citizen or the rather neglected average wage earner.

The great failure of the legal system in this society is that it has been unable to deliver legal services to many in need of them at a reasonable price.

The problem is undoubtedly two-fold, as it is in medicine. The delivery of services must be made more economical, and the money to pay for services must be made available to those who will be unable to afford them at any price.

I would like to talk about one of these problems, the delivery of legal services in a more economic fashion.

While there are many technological innovations which may make the modern law office more efficient than its predecessors, it is clear that the major cost component of legal services is professional labor. If the labor cost can be lowered, the price of the services can be lowerd.

The use of paralegals is a major economic breakthrough in the practice of law, beause paralegals do lower the labor cost incurred in providing legal services.

What then is a paralegal?

I will try to skip the more complex definitions and just stick to the simple one, that is, that paralegals are nonlawyers who perform functions traditionally performed by lawyers.

The fundamental theories on which use of paralegals rest are as follows:

First, that a legal matter can be broken into small tasks. Each task need not be done by the same person.

Second, that not all of the individual tasks involved in handling a client's problem require a lawyer to do them. In fact, most of what a lawyer does every day was not learned in law school. Instead, it was learned on the job. Surely, there are others in the society who possess the aptitude to do some parts of the work.

The basic concepts involved are not new. Industry adopted these concepts when it switched from the piecework method of production to the production line. The advent of nursing and the other medical subprofessions marked a similar change in the practice of medicine. Actually, we have had some de facto use of paralegals for years. There are many legal secretaries who did work in one office that was done by lawyers in another.

What is new, I believe, is the concept of formally trained paralegals who can, within a particular type of practice, do a wide variety of tasks that involve a real understanding of the substance of a transaction or lawsuit.

In the limited time alloted me, I would like to discuss the Institute for Paralegal Training of which I am a founder, the licensing and accreditation of institutions for training paralegals and the certification of paralegals. Of necessity, I will be brief.

However, much of what I will discuss has been elaborated upon the written submission which I have delivered to the subcommittee.

The Institute for Paralegal Training is a proprietary institution which was founded in March of 1970 by three attorneys, including myself and a businessman.

The school grew out of the need which we perceived for trained paralegals and the feeling that law firms could not economically do the training themselves.

The institute's students are, for the most part, graduates of 4-year colleges with excellent academic records. Acceptance is highly competitive.

The institute recruits its students through an active oncampus recruiting program at about 110 colleges and universities from coast to coast. Students attending the institute have actually come from about 260 colleges and universities throughout the country.

The institute presently offers six courses. Five train students to perform tasks in one legal specialty area, either corporations, estates and trusts, litigation, real estate, or employee benefit plans. Students take one of these courses, and it is expected that they will work for lawyers with a corresponding specialty.

The institute also offers a general practice course which trains students to do tasks in four areas of law designed to mesh with the needs of small- to medium-size law firms. In September we are adding a course in criminal law.

The specialty courses each run 13 weeks, or 180 class hours, while the general practice course runs 17 weeks and consists of 231 class hours. Classes meet 3 hours per day, 5 days a week.

The courses are all taught by practicing attorneys with experience in the areas they teach. The basis for the class work is a lengthy text produced by us for each course. In addition to class work, there are writing assignments which are designed to parallel the tasks which a paralegal might be given on the job. And there are tests. Not all students are able to successfully complete the program, although about 94 percent of those enrolled do receive a certificate of completion.

Upon completing a course, the institute endeavors to place each of its graduates.

Placement is handled by a staff of 10 full-time people, plus others who devote part of their time to placement. This large staff is consistent with our belief that vocational education must lead to a job. Otherwise, the expectations of the student have not been met. We have been able to achieve a remarkable placement record, especially considering the newness of the field. To date, over 90 percent of the institute's graduates who were eligible for placement received jobs within 2 months after graduation.

I would like to mention one unique aspect of our arrangement with students in the specialty courses which I've mentioned. We enter into an agreement with each student, whereby the students designate a placement city upon graduation. If we fail to get the student a job offer in that city within 2 months after graduation, the student receives a full tuition refund. We have been able to make that arrangement by carefully controlling applicants to correspond with our estimates of the job market in each city. To date, the institute has graduated about 1,000 students. Graduates are working in more than 250 private law firms and over 40 banks and corporations in about 70 cities from coast to coast.

The institute is licensed in Pennsylvania as a private business school. In addition, it is licensed in five other States in which it solicits students.

Licensing involves a judgment by the State that the financial condition of the school is adequate for its purpose, that the physical facilities are adequate, and that the administration's credentials are satisfactory. While approval of faculty and programs is also within the purview of most State regulatory schemes, the State agencies generally review faculty and course content in a rather cursory manner. I would like to focus briefly on a few problems relating to State licensing of paralegals and other private vocational institutions.

First, the lack of reciprocity between the States. There is virtually no reciprocity between the States with regard to licensing. This results in duplication of effort on the part of the licensee who must prepare many applications, pay several fees and obtain mutiple school bonds.

In addition, the regulations differ from State to State. One example of differing requirements is the tuition refund applicable to a student who does not complete a course. The refund varies depending upon the State in which the student was solicited. Also, advertising rules vary from State to State, so that a statement in a brochure may be acceptable in one State and not permissible in another.

These problems may be less serious in some fields where all of the people in the field are subject to the same regulation. However, in our field, the majority of competitive programs are nonprofit and, therefore, subject to less stringent regulation. It must be remembered that nonprofit institutions are subject to many of the same abuses as can occur in those with a profit motive.

Aside from State regulation, accreditation or approval of programs is now on the horizon. For the past 3 years, the American Bar Association Special Committee on Legal Assistants has wrestled with this problem. Last August the house of delgates of the ABA authorized the special committee to begin recommending programs for approval, in accordance with guidelines which had been developed by the committee.

The guidelines, as presently constituted, would premit the approval of many types of programs. The basic requirement is that 15 semester hours be devoted to paralegal training. The training can be general; that is, in several areas of law, or the training can be in a legal specialty. The guidelines also require 45 semester hours of general education, although students may receive credit for past education, as would be the case with virtually all of our students. The ABA guidelines require that the program have a lawyer advisory board, that the program be sponsored by a parent institution which is accredited, or eligible for accreditation by one of the recognized accrediting agencies, and the program be in existence for 2 years at the time it applies for accreditation.

The committee has made a pilot accreditation visit to the institute and a few other programs, to test the procedures it has developed. When the ABA begins actual accreditation of programs, we would expect to be among the first institutions to apply.

Many people active in the field believe that, close on the heels of accreditation, will come certification of paralegals. While the special committee of the ABA might well get into that field once it finalizes accreditation procedures, the State of California has already begun to move toward State certification of paralegals and approval of programs. The California Assembly has passed a bill which is now before the senate. The bill authorizes the creation of a certified attorney assistant board of nine persons which, acting in cooperation with the board of governors of the State bar association, will establish criteria for certification. The board is expected to create job-functions related exams and to establish standards for approved programs for training paralegals.

The California legislation does not contain the crucial substantive information of importance to paralegals desiring certification, and institutions seeking approval of their programs. That will come later from the board.

However, the legislation does raise the question of whether an institution approved by the ABA will also have to be approved by California and ultimately many other States.

Certification is a thorny area. One must ask what we are trying to accomplish. Do clients need the protection of certification? I would argue that, so long as the lawyer they hire is responsible for the work, certification adds little.

Do attorneys need the protection? It would seem that attorneys could reasonably protect themselves by hiring graduates of approved programs. Although, with regard to those who have not graduated from approved programs, certification would provide guidance for the hiring attorney. Over time, however, the number of people entering the field without completing a program may well diminish.

It can be argued that certification will give well-deserved status and recognition to the paralegal. However, I wonder if the ABA cannot better serve that need than can the States.

I would like to add one final note with regard to certification and accreditation or approval of programs.

The field is new and so much at the experimental stage that it would be very harmful to tie either accreditation or certification to narrow inflexible guidelines. Yet, if the guidelines are broad, accreditation and certification may have little meaning.

I have tried to cover a lot of ground relating to a subject which I find extremely exciting. I take great pride in the fact that we have changed the way the law is practiced in many law firms throughout the country, while at the same time creating a job market for a group of people with great potential.

One such person will speak next. The subcommittee has invited Phyllis Johnson, a practicing paralegal, to make some remarks. Because Ms. Johnson is a graduate of our program, I have been given the pleasurable task of introducing her. Ms. Johnson is a graduate of Raymond College of the University of the Pacific where she majored in philosophy. She graduated our litigation course in December 1971 and, soon thereafter, began work in the New York law firm of Weil, Gotshall & Manges. Her job involved work on an antitrust case; and, when the files were transferred to cocounsel Arnold & Porter in Washington, she followed.

In August 1973, Mr. Johnson moved to Erie, Pa., to join her fiancé, now husband, who is a law clerk to Justice Samuel Roberts of the Supreme Court of Pennsylvania. Ms. Johnson worked for a private law firm in Erie for a few months and, since early December of last year, has worked for legal services of northwestern Pennsylvania.

STATEMENT OF PHYLLIS JOHNSON, GRADUATE, INSTITUTE FOR PARALEGAL TRAINING

Ms. JOHNSON. Good morning. I am pleased to have the opportunity to express my views on possible legislative responses to the question of licensing and training of legal assistants and the accreditation of schools for legal assistants.

As Paul Shapiro has mentioned, I graduated from and have worked in the lab for years as a legal assistant, both in public and private offices. My work in private firms included document review, research and document analysis.

My current position with public legal services involves client interviewing, negotiation and drafting of pleadings.

Because of my diverse experience, I realize the complexity of the questions that have been raised here and can offer no easy answers.

There is no doubt that, as Prof. Lester Brickman has stated, "The development of a trained legal paraprofessional group is clearly an idea whose time has come."

Although we may agree on that much, the present concern is how to best implement that idea. I would like to focus on a few questions which inhere in our joint concern.

I would like to stress my belief that legal assistants must have a voice in any decisionmaking that affects their work and lives. Surely the professionalization of legal assistants is a desired and necessary goal. Although legal assistants as a group are now considered a "para" profession, in my judgment, time will change this. By having professional concern for clients and their problems, legal assistants make a truly significant contribution to the task of providing quality legal services. As creative, independent thinking is expected to them, legal assistants are emerging as a profession.

I suggest, therefore, that, like all other professionals, legal assistants should manage their own affairs.

I would agree that standards must be established to ensure that those holding themselves out as teachers of legal assistants do, in fact, adequately prepare persons to be legal assistants.

The development of curriculum is in an experimental stage. This makes the formulation of accreditation standards that meet the diverse needs of legal assistants all the more difficult. However, the questions of standards of accreditation and who should be the accrediting body are presently under consideration by the ABA. As a legal assistant who attended a training program, and is now practicing, let me share some thoughts with you on these questions.

First, attending an accredited course for legal assistants should not be the sole method of entering the profession. Opportunities should exist for entry through apprentice programs. My experience has been that on-the-job training, if properly conducted and supervised, is just as effective, if not more so, in preparing a person to be a legal assistant.

Persons who wish to be a legal assistant at either a public or private law office should have the opportunity to choose apprenticeship. Apprenticeship, however, is especially helpful in fulfilling the need of public legal services. This allows legal assistants to be drawn from the community served by legal services programs.

My experience has been that "community" legal assistants play a significant role in public law offices. Because they are better able to communicate with the clients of legal services, problems are discovered more quickly and factual situations are drawn from the client more completely. Because they are usually long-time residents of the community, they provide continuity in the delivery of legal services and furnish a foundation of trust for legal services within their community.

Moreover, requiring that all legal assistants attend an accredited school will have the effect of rasing the cost of entry into the profession. Raising cost barriers to entry will likewise limit the supply of legal assistants, with the concomitant result of increasing the cost of delivery of legal services. To the extent this occurs, it will be counter-productive to the very purpose of having legal assistants.

Second, let me suggest that accreditation should not be used directly or exclusively to ensure the professional competence of legal assistants. Rather, as stated earlier, it should be directed to regulating courses of study designed for legal assistants.

Licensing and the promulgation of normative standards are more senstive means of assuring professional competence. Licensing can guarantee that those who enter the profession have a certain level of competency without inhibiting important distinctions between public and private legal assistants.

Normantive standards will enable the profession to exact a high level of professional conduct from its members and, when necessary, to enforce those standards.

Again, I must reiterate my belief that, in the structuring of a licensing system and in the drafting of normative standards legal, assistants must play a key role. It is they who will have to live by these standards.

Third, I am wary of accreditation at this time. This concern stems from a perception that, to the extent the to-be-accredited schools reflect only the needs of private law offices, accreditation will prejudice the status of public legal assistants. The Institute for Paralegal Training which I attended, was oriented solely toward schooling persons to be legal assistants for private law firms.

In my view, schools for public legal assistants are necessary to reduce the cost of legal services to low and moderate-income persons. Without equal emphasis on accrediting schools, both for public as well as private legal assistants, premature accerditation will widen the already existing gulf between public and private legal assistants.

Finally, legal assistants should have an active voice in determining the content of any curriculum designed to train persons entering their profession. This is only common sense.

Legal assistants know firsthand the scope of tasks assigned them and in what way their prior training was relevant. They will be able to make thoughtful suggestions for imporving legal assistant schooling. Of course, attorneys who work with legal assistants have a perception of the adequacy of legal assistant pre-job training that cannot, and should not, be ignored. Both perceptions are necessary if schools for legal assistants are to most effectively prepare persons to enter this new profession.

Proper standards for legal assistants and for schools for legal assistants is a goal shared by all those interested in the administration of justice in our Nation. I hope my comments will aid your subcommittee in approaching that task.

Once again, let me thank you for this opportunity to testify.

Senator TUNNEY. Thank you very much—both of you, for your remarks. And also I wanted to thank you, Mr. Shapiro, for the very extensive supplementary statement that you prepared for us which runs 50 pages, or so. And I want to thank you for not reading it. It's a very good statement. I was glancing through it, as you were speaking, and I think it's going to be a substantial addition to the record.

I have a few questions. They are probably obvious questions from your point of view, but they intrigue me.

Ms. Johnson, how much does your attorney charge for your time?

Ms. JOHNSON. I am the public assistant now. So my time is not charged. At the time I was working in a private firm, I believe I was charging at $15 an hour.

Senator TUNNEY. At $15 an hour?

Ms. JOHNSON. Right.

Senator TUNNEY. And how much was your attorney charging for his time?

Ms. JOHNSON. Depending on what law firm I was in. In the Erie law firm I was in, it was from $35 to $50. It was substantially higher than that in the New York and Washington, D.C. firms that I worked at. I would say it was from $50 to $100.

Senator TUNNEY. $50 to $100 an hour. To your knowledge, is $15 an hour about the going rate for a paralegal?

Ms. JOHNSON. I think it's recently increased to about $21 an hour for senior paralegals that have been working for about a year or 2 in a law firm.

Senator TUNNEY. Mr. Shapiro, what is your understanding of this?

Mr. SHAPIRO. We did a study—I believe it was about 6 months ago.

And our last figure indicates that most paralegals in large cities received a billing rate of $18 to $20 an hour to start. And the rate is likely to go up after they have gained some experience. And we're talking about——

Senator TUNNEY. To how much?

Ms. JOHNSON. Well, if we live in New York City, probably $25 an hour with a year to year-and-a-half experience. And we are talking about firms in which probably the lowest attorney billing rate is in the range of $40 an hour—for the youngest attorney in the firm after he has passed the bar—she has passed the bar—and then on up to $100 an hour.

Senator TUNNEY. So the paralegal is getting approximately one-quarter of what the attorney gets for his time in some of these larger law firms, and a third in some of the smaller ones where they charge $35 to $50 an hour.

Ms. JOHNSON. Yes—except the problem with most of the paralegal time is replacing the time of attorneys who are not the most senior in the firms. So it's probably replacing the time that is in the $40 to $60 an hour range. It's more like a half or a third, as opposed to the time—the $100 range.

Senator TUNNEY. One of the arguments made against paralegals is that they will be used to make more money for attorneys, and although attorneys charging less for parlegals' time. When you net out the balances, you find that attorneys will make more money by using paralegals.

What is your view of that?

Ms. JOHNSON. Well, the potential for ~~that~~ kind of abuse is this—and I think that you must break up the kinds of work that lawyers do for clients and the methods of billing. So that, for example, we were talking about a matter that is traditionally billed on an hourly basis. For example, a large piece of litigation. If the attorney is representing the defendant and is doing a great deal of documenting and purely indexing, which would normally be charged on an hourly basis, I think the same is being passed through to the clients, so they are being billed directly for paralegal time at the lower rate, and paralegal time probably equates with lawyer time on the basis of a 1-hour basis.

On the other hand, there are other matters such as public law firms, personal injury lawsuits, which are normally billed on a contingency fee, and estates and trust work which are normally billed on a percentage on the size of the estate or trust in which, if the billing rate—if the billing method stays the way it has traditionally been computed—the use of paralegals will simply increase the profit to the law firm.

In addition, many law firms are using paralegals on tasks that were only marginally profitable until now. Even, in a sense, they were tasks on which the law firm traditionally lost money; but they were kind of lost leaders. They are done in services to clients who provided large fees in other ways. Those matters are now being performed at a break-even or even slight profit.

For example, in the East, the use of the attorney at the house settlement was traditionally a losing settlement for a large firm; and they now break even if you use a paralegal. But I think the courts can help in this respect, in that they, for example, control the setting of fees in estates and trusts areas. If they would switch to a different method of computing fees, that would take into account the use of paralegals, and the same savings would be passed to the public.

Senator TUNNEY. I am informed that we are approaching a quorum up in the committee, so I'm going to have to leave—probably—hopefully, for only about 35 minutes.

I think it is a matter that is under discussion and can be disposed of rather quickly up there. But, in any event, I'm going to have to go up. So I will recess this hearing until I return.

[Hearing recessed at 10:55 a.m.]

Senator TUNNEY. This hearing will come to order.

As I left the hearing room, I was questioning you about the problems associated with paralegals and fees charged for paralegals and whether or not these would, in fact, lead to abuses and I wanted to follow up on the questions that I asked, with this thought.

The Department of Labor has estimated the law schools will turn out for the next few years, 29,000 lawyers for each 16,000 jobs available in the legal profession.

How do you feel the paralegal development will affect this already overcrowded job market?

Mr. SHAPIRO. Well, I think that—well, I hate to say it, paralegals will be competitive with the other lawyers for jobs especially in the marginal market. I believe that they are already competitive for jobs because it seems to me that you are dealing with a situation where, aside from the possibility of prepaid legal services in the existing private field, there is so much legal work which I think can be handled today by an existing staff of legal personnel.

Now, there has crept into that circle already a relatively large number of paralegals. I can't think—well, let me put it a different way: I think they have replaced other lawyers already because if you pull those paralegals out of that sphere, it would be imposisble to say that you wouldn't have to have more lawyers in or else the paralegals haven't been doing anything.

Now, I think that more and more firms are not necessarily going to cut back their hiring of young lawyers but hire at a less increased rate so that a firm that might have hired, for example, eight young lawyers in 1974 and hired five last year might hire six this year and three paralegals and I think the mix will be such that paralegals will compete with young lawyers for jobs. Additionally, the traditional method of hiring young lawyers has been again among the larger firms to hire in full and what happens is during the year they perceive a need, say the firm is faced with all of a sudden a large piece of litigation and these people could do some of the factual research in that case and they bring paralegals in, that job now becomes a paralegal job and is probably lost to young lawyers forever.

As, for exaple, paralegal may leave the firm. The paralegal will probably be replaced with another paralegal and not a young lawyer so I think there is competition there that will affect the ability of young lawyers to get jobs.

Senator TUNNEY. Yes, but don't you have to look at the delivery of legal services and the need for legal services as a total system?

This committee has heard testimony that 70 percent of the American people who need legal advice do not get it because they do not feel they can afford it and we've had some estimates—one by Cornell University in a survey that they've made that approximately thirty thousand legal decisions are made every day by laymen without the advice of a lawyer when they should have the advice of a lawyer simply because they don't feel they can afford it.

Now, the question I have is—and I don't know if you've gone into this in depth: Do you not feel that there is, at the present time, a need for all the lawyers that are being turned out of law school as well as the paralegals? That we just don't have an adequate delivery system in this country?

Mr. SHAPIRO. Yes. I was responding before with regard to the existing system. In other words, I was not taking into account the question of delivery of legal services to the people who now cannot get them. I think without any question the statistics you have are probably accurate in that if we were able to deliver legal services at a reasonable price to the vast group of people that either can't afford them of even if they can somehow afford them they're so overpriced that they try to make it through without them. From our standpoint I think without any question we could use a vastly increased number of paralegals.

It seems to me that the use of paralegals is one of the key factors in being able to price legal services at a rate that this middle-income group could afford. Because so much of the kind of work that needs to be done for these people is work that would occur on a high volume basis, but in each matter would involve only a small dollar volume, so it's high volume, repetitive work, and I think that it's almost impossible to conceive of somebody handling that work economically without a large number of paralegals being part of the working team.

Ms. JOHNSON. I'd just like to make a comment in regard to the public sector which I think has already felt its concern and has utilized paralegals in order to reach the poverty community which they ought to represent for free and so we see everybody we can see within that community but without the use of paralegals we only reach a small percentage of the numbers of that community that have access to our service.

Senator TUNNEY. Well, do you feel a community or junior college may be doing a service to the students if it floods the markets with paralegals from the related programs and leaves many of its graduates unemployed?

Mr. SHAPIRO. Yes, I think it is possible that the graduates of those programs would ultimately find work as group legal practice grows but I think that today the work is not there except for community colleges which exist in some smaller communities where there is no existing institution they can supply the needs of the lawyers—that in general the graduates of those programs are not what the legal market is looking for in the private sector. It is also—it has been our experience that for the most part, the poverty law programs are also not looking for these people. We have been very interested in the past, in producing programs in the poverty low area ourselves. I think that the students that would be on campus, graduates of 4-year colleges, are quite interested in working that area and are often willing to work for quite a bit less money than they would receive in the private sector but the feeling has generally been that, for the most part, the community programs want local people trained as paralegals rather than a cadre of upper-middle-class people that don't really understand the problems and such as that.

Senator TUNNEY. What role, if any, do you see for the Federal Government in this area?

Mr. SHAPIRO. Well, I think—that's a difficult question to respond to. I think, first of all, that I would like to respond with regard to the legislation that presently affects training institutions. I think that I mentioned that there is no reciprocity between States, with regard to licensing of institutions and I think this creates an unnecessary hardship and ultimately just an expense to students to the extent that we have to spend money for staff to simply duplicate information from one State that we have already given to another. That ultimately gets passed onto the students and the lawyers and the clients so that duplication of effort would seem unnecessary. What kind of legislation to deal with that—I'm not certain. I think that with regard to accreditation, I don't know whether—the problem I see on the horizon is the possible duplication, again, of standards by the States and by the American Bar Association, which I think would be very negative result unless the State would buy and accreditation program produced by the American Bar Association. I think the possibility of having 50 different systems for approving programs would be extremely detrimental and I think it's possible the Federal Government could mediate and I think the same is true with regard to certification. I think to the extent the Federal Government can push lawyers toward group legal practices, I think it is the Federal Government's problem that this vast group of people do not have legal services.

Certainly the Federal Government has faced the problem in the medical area and apparently will be facing it in an increased way in the next year. I see no reason why the same problem couldn't be dealt with in the legal area and I think that anything that the Federal Government can do to encourage forms of legal practice which will deliver services to this vast middle-income group will be a positive factor; if paralegals get dragged along in that scheme, I don't think that should be the focus. I think the focus should be the public. And I think that once services can be provided to the public, the profession can—I think the public and the profession can mediate the question what is the most economic way to provide them.

Senator TUNNEY. Thank you very much, Mr. Shapiro.

Thank you, Mrs. Johnson.

[Mr. Shapiro's statement follows:]

WRITTEN STATEMENT TO SUPPLEMENT TESTIMONY OF PAUL E. SHAPIRO, THE INSTITUTE FOR PARALEGAL TRAINING, JULY 23, 1974

I. INTRODUCTION

The written material that follows is intended to supplement testimony to be presented before the United States Senate Subcommittee on Representation of Citizen Interests. The material is divided into three areas:

(1) The history and background of the Institute for Paralegal Training,

(2) state laws and regulations governing the Institute, and its programs, including proposed approval of paralegal training programs and certification of paralegals, and

(3) our view of the effect paralegals will have on the economics of the private practice of law.

II. THE INSTITUTE FOR PARALEGAL TRAINING

A. History

1. Founders

The Institute for Paralegal Training was founded in 1970 by four individuals: Daniel Promislo, Paul E. Shapiro, B. Barry Swedloff and Richard J. Braemer. Messrs. Promislo, Shapiro and Braemer were lawyers practicing with large firms in Philadelphia and Mr. Swedloff was a businessman.

The need for the program was based upon the experience and perceptions of the founding attorneys. Their fundamental sense of the need for well trained legal assistants was further refined in discussions with a number of lawyers prior to embarking upon the establishment of the program. The program was designed to recruit and train paralegals capable of performing all of the tasks within a specific field of law that a receptive lawyer might reasonably delegate.

2. Initial Business Structure of the Institute

The Institute was formed as a private business corporation, financed through a private offering of stock. Each of the founders, with the exception of Mr. Braemer, devoted full time to the enterprise.

3. Basic Conceptual Premises of the Program

After a great deal of discussion, certain basic premises were developed. These premises controlled the direction of the Institute's efforts. A discussion of the most important premises is set forth below.

(a) *Much of the Work Traditionally Done By Lawyers, Does Not Require A Law School Education.*—While law schools rank at or near the top of the world of education in terms of quality, most lawyers would agree that they did not learn to do the everyday work of law in law school. This part of legal education is accomplished on the job.

Some of the work that a young lawyer learns to do draws on the knowledge and skills acquired in law school while other work does not. In the practice of law there has been no distinction drawn between these two types of tasks. Although a lawyer is needed, for example, to negotiate and shape a transaction, or appear in court, we believed that a non-laywer could perform such tasks as preparing drafts of documents or digests of depositions.

Lawyers as a group have other characteristics which permit them to do certain tasks well that are not related to their law school education. They tend to be intelligent, careful, conscientious and highly motivated. It is obvious that at least some other people who are not lawyers share these same characteristics.

(b) *Type of People to Be Trained.*—As paralegals will perform many tasks traditionally reserved to lawyers, we believe that it was important to find and train the brightest people available. Therefore, we decided to aim our program at liberal arts graduates of four year colleges, whose education has given them only limited skills usable in the job market. We believed that a program aimed at these people would be able to attract top notch students who would be eminently trainable and have the level of intelligence necessary for the work.

(c) *Specialty Paralegals.*—We concluded that it would be best to train people in legal specialties so that their training would parallel the work performed by a laywer specializing in one area of practice. Subsequently, the Institute did add a general course which is geared to small law firms in which the lawyers can not properly utilize a specialist.

(d) *A Highly Sophisticated Placement System Was Needed.*—In 1970 there was very little job market for paralegals. Therefore, we decided that we would try to serve a national market from one location. We would attempt to draw students from all over the country, train them in Philadelphia and place them with employers all over the country. In that way we would not have to depend on a very big market in any one place in order to place the graduates of a class.

In addition we recognized the need to do a tremendous amount of missionary work in the field in order to obtain employment for our graduates. This meant that we would need a large placement staff trained to visit law firms, banks and other potential employers to promote the concept and ultimately place graduates.

(e) *Employers Subsidized a Portion of Tuition.*—In order to maintain a highly selective admissions system, a large placement effort and a top notch educational program, we realized that the tuition would have to be too high to be economic for many prospective students. This was extremely troublesome because we did not want to lose good candidates because of the expense of the program. We decided to charge students a tuition which is below our cost, and to charge

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employers a substantial fee when they hire a graduate. The employer fee subsidizes the recruiting and placement efforts and is a partial subsidy of the tuition. We felt it was reasonable that the employers, who ultimately receive a great deal of the benefit of the screening and training, bear a portion of the expense.

B. History of the Institute, 1970–1974

1. Course Development

In July 1970, the Institute began its first course—Corporate Law. A description of that course, as well as the others offered by the Institute, appears as Appendix A to this statement. In January of 1971 the Institute added a course in Estates and Trusts. Later that year courses in Real Estate, Litigation and General Practice were added. In the summer of 1972 the Institute added a course in Professional Association and Pension and Profit Sharing Plans. In September of 1974 the Institute intends to introduce a new course in Criminal Law.

2. Student Population

(a) *1970.*—During the year 1970, 39 students were enrolled[1] in two Corporate Law courses. 33 students graduated, of whom 30 were available for placement. 27 graduates were placed by the Institute and 2 placed themselves.

(b) *1971.*—The combined enrollment of the Estates, Litigation, Real Estate and Corporate courses during 1971 was 142. Of that group, 132 graduated and 127 were available for placement. One hundred Twenty of the graduates were placed by the Institute and 3 placed themselves. During that year, 17 students were enrolled in the General Practice course of whom 16 graduated. Ten of the graduates were available for placement and they were all placed by the Institute.

(c) *1972.*—The combined enrollment in the various specialist courses in 1972 was 230 students, of whom 212 graduated and 202 were available for placement. One Hundred Ninety Four of the graduates were placed by the Institute and 5 placed themselves.

Twenty seven students were enrolled during 1972 in the General Practice course of whom 22 graduated and 21 were available for placement. Thirteen of the graduates were placed by the Institute and 6 placed themselves.

(d) *1973.*—During 1973, 338 students were enrolled in the specialist courses at the Institute of whom 316 graduated and 305 were available for placement. Two Hundred Seventy Three of the graduates were placed by the Institute and 17 placed themselves.

Fifty nine students were enrolled in the General Practice course in 1973 of whom 56 graduated and 52 were available for placement. Thirty of the graduates were placed by the Institute and 15 obtained jobs on their own.

(e) *1974.*—During the spring of 1974, 186 students were enrolled at the Institute. Of that group, 185 have graduated. Although the Placement of these students is not finalized, the record will be about the same as for the classes in the past.

In June of 1974 four courses began with a total enrollment of 108, and in July three courses began with a total enrollment of 78.

In September of 1974 the Institute expects an enrollment of about 30 students in its new Criminal Law course.

(f) *Summary.*—In summary, through the end of 1973, the Institute had enrolled a total of 852 students in all courses. Seven Hundred Eighty Seven had graduated and the Institute placed 667 of 747 available for placement, a total in all courses of 89.3%. When the 48 graduates who placed themselves are added to the total, the combined placement rate equals 95.7%.

3. Physical Facility

The Institute was originally located on a floor of an office building in the Society Hill section of downtown Philadelphia. In December of 1972 the Institute, through the Philadelphia Authority for Industrial Development, purchased a large four story townhouse building at 17th and Locust Streets in the business district of Philadelphia. The building was renovated during the spring of 1973 and the Institute moved its operations in May of 1973.

The building has two floors of office space and five classrooms, each of which is terraced to provide a warm intimate atmosphere for the type of teaching methods used. The classrooms are equipped with blackboards, instructor's desk and chair, a recording machine and microphone to record each class session for students who may have missed the class or want to review the class session, and classroom seats with tablet armchairs for each student. The students also have available to them a coffee and food lounge, a reading lounge, library, game room and study room. The facility accommodate approximately 360 students at any one time, 180 in the morning and 180 in the afternoon. The physical facility is adequate for the expected expansion over the next several years.

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[1] Students are counted as enrolled in the year their class graduates.

4. Staff

The administrative staff of the Institute is divided into four areas of responsibility: (a) the Directors of the Institute, (b) Faculty and Student Affairs, (c) Admissions and (d) Placement. A roster of the current staff is set forth as Appendix B to this submission.

5. Present Business Structure

In April 1973, the stock of Para-Legal, Inc., the operator of the Institute, was acquired by Bell & Howell Company. The Institute is presently a wholly owned subsidiary of Bell & Howell.

C. The Students

1. Basic Admission Critreia

(a) Academic.—A degree from a four-year college and a high level of college achievement are required in nearly all instances. An exception is made to this requirement when, in the opinion of the Institute's admissions committee, an applicant who does not have a college degree exhibits sufficient ability and motivation to appear to enable him or her to successfully complete the course and work competently in the field. Approximately 5% of the students do not have college degrees. An applicant is required to submit an application form and an official copy of his or her college transcript to the Institute for review in the admissions process.

(b) Testing.—In order to assist in comparing graduates of a large number of schools, the Institute administers a test measuring verbal and analytical skills, the Ohio State University Psychological Test—Form 26. A prospective student is expected to achieve a test score which would place him or her in the top 16% of the college population.

(c) Personal Interview.—The Institute requires all applicants to have a personal interview with a member of the admissions staff. This gives the admissions staff an opportunity to evaluate the applicant and to discuss the applicant's career plans, the Institute, the job of being a paralegal and the geographic location in which the applicant would like to be placed after graduation from the Institute.

(d) City Choice.—The Institute operates under a unique admissions procedure whereby it matches the number of students accepted to an estimate of the number of job openings. The number of students admitted to each class is governed by a series of projections or estimates prepared course by course and city by city by the Institute's placement staff. The admissions staff seeks to fill these projections. For example, the placement staff may project one real estate job in Denver upon graduation of the next incoming class. Therefore, the admissions staff would accept one student in the next real estate course for placement in Denver upon graduation. The admission staff would not accept more than the one student, notwithstanding the availability of additional qualified applicants.

2. How We Find Students

In general, the Institute has found its students with the help of college placement offices throughout the country. We first try to sell the program to a college placement office. The office will then make our literature available on campus. We will also advertise in the college newspaper.

The final step in the process of locating prospective students on a given campus is a day of on-campus interviewing.

3. Schools Visited

In order to satisfy the widespread law firm market, the Institute interviewed during 1974 on approximately 100 campuses throughout the country. Schools are chosen based on their academic reputation and the likelihood that they are geographically located so as to feed students into a good law firm placement market. For example, the Institute recruits heavily at many of the major universities and independent schools throughout the northeast and mid-Atlantic states. In addition, the Institute recruits heavily in the Midwest in order to serve its placement markets in Cleveland, Detroit, Chicago, Milwaukee, and

Minneapolis. Similarly, schools in the Denver area, the West Coast, the Southwest and the South are visited. Since 1970 the Institute has visited approximately 135 colleges and students have come to the Institute from approximately 260 colleges.

4. Student Tuition and Book Charges

(a) *Specialty Courses.*—Students in the Corporate, Estates and Trusts, Real Estate, Litigation and Employee Benefit Plans courses pay a tuition of $950.

(b) *General Practice and Criminal Law.*—Students in the General Practice and Criminal Law courses pay a tuition of $1250.

(c) *Employer Sponsored Students.*—Approximately 10% of the students enrolled at the Institute at any given time are sent for training by existing or prospective employers. The fee for such students is $1800 and is often split in some manner between the employer and the student.

(d) *Book Charge.*—In addition to tuition, the charge for the textbooks prepared by the Institute is $75 for all courses except General Practice which is $100.

5. Student Housing

The vast majority of students enrolled at the Institute are from out of town and, therefore, require housing. Students are given the option of obtaining their own housing or of availing themselves of housing provided by the Institute. At the present time the Institute's housing consists of a block of apartments at The Drake, an apartment hotel located at 15th and Spruce Streets in downtown Philadelphia, approximately three blocks from the school. Most are furnished two to three room apartments which accommodate two students. The rent for the apartments is approximately $135 per student per month.

The Institute has also been able to house a small number of students with families living in the residential district of downtown Philadelphia. These students often earn their room and board in exchange for various services such as babysitting.

D. Academic information

1. Course Structure

(a) *Class Hours.*—The basic daily class routine for each course consists of three class hours per day, five days per week, divided into two sessions of one and one half hour each with a 30 minute intermission. In addition to attendance in class, students are expected to spend another 2–3 hours per day preparing for class.

There are a variety of programs which meet during non-class hours relating to matters such as interviewing techniques, law firm economics, how to get along in a law firm and so forth.

(b) *Total Hours of Instruction.*—The five specialist and Criminal Law courses each total 180 class hours. The General Practice course consists of 231 hours of class instruction.

(c) *Class Size.*—The class size ranges from about 15 to 46. We believe that a class size in excess of 46 would hamper the kind of dialogue that we are trying to create between the teacher and the student.

2. Teaching Method

In general, the teaching method in use at the Institute is the Socratic or dialogue method. Teachers are instructed to keep lecturing to an absolute minimum and to emphasize class participation. This is done through the use of hypothetical situations which are developed by the instructor for use in the classroom.

All teachers are asked to try to have each student respond in class at least twice per day. We believe that the use of hypotheticals and the creation of a dialogue between the instructor and the student lead to the deepest possible level of understanding of the work being studied.

3. Course Texts

When we began to develop our first course we found, upon a review of the existing literature, that there were no satisfactory textbooks designed to teach lay people the material that we had in mind. Therefore, we found it necessary, and have subsequently found it necessary in each of the other courses, to develop our own texts.

The text for each course was developed by first setting forth the tasks that we would wish a paralegal in a particular area to be able to perform. Working backwards from the tasks we created a text which would take the student step by step from point zero to the level of understanding we sought to achieve in each area.

After detailed outlines were prepared for each course, the Institute hired lawyers to prepare specific chapters of a course dealing with areas in which the lawyers had expertise. On the average, the courses required ten to twelve authors plus two editors, and each took 1500 to 2000 lawyer hours in preparation.

The average length of a text in the specialist courses is approximately 1400 pages and the general practice text is approximately 2700 pages.

The texts serve as the basis for reading assignments for class each day. In addition, they contain a variety of forms and sample agreements which may be used as the basis for preparing writing assignments.

Writing Assignments

As a supplement to the text and tests, the Institute has prepared a series of writing assignments in each course which are designed to parallel the kinds of assignments which might be given to a practicing paralegal. These assignments are usually in the form of a memorandum from a lawyer to a paralegal and require the preparation of a document which would be used in a legal transaction. The assignments are reviewed in class and sometimes graded.

5. *Tests*

While the Institute does not formally grade or rank its students, it does administer to each student two to three tests, each of two to three hours duration. Tests are designed to help spot those students who are not displaying sufficient aptitude or interest to successfully function as a paralegal.

6. *Academic Withdrawal*

Approximately 6% to 7% of the students have been asked to withdraw from the Institute for academic reasons.

Depending upon the time in the course at which a student withdraws, or is asked to withdraw, a refund of tuition may be applicable in accordance with state law and our enrollment agreement.

7. *Faculty*

(a) *Teachers.*—The Institute's teaching staff consists of two attorneys who are on the Institute's administrative staff, three attorneys who devote approximately half of their time to teaching (i.e., they teach half a day almost every class day), and approximately 45 teachers who teach on a part time basis. The latter group consists of practicing attorneys who teach one or more chapters of a course one or more times a year. The teachers all teach exclusively in areas in which they specialize in practice. Teachers are evaluated by the Institute's staff and students, and are retained or replaced based on these evaluations.

E. Placement

1. The Placement Goal

The Institute believes strongly that it is providing a type of vocational education which students seek in order to obtain a job. Therefore, we believe it is our responsibility to make certain that every graduate of the Institute receives an appropriate job offer. Obviously, it is impossible to achieve 100% of that goal. However, the statistics cited in section I(B)(2) above attest to the high level of success which our placement effort has met.

2. Placement Responsibility—Course by Course

(a) *Corporate, Estates and Trusts, Real Estate, Litigation and Employee Benefit Plans.*—The Institute enters into a contractual arrangement with students enrolled in the above courses whereby the students agree to seek employment only through the Institute's placement service for a period of two months after graduation from the Institute. If the Institute fails to obtain a job offer for the student in the city designated on the agreement, within the two month period, the Institute is obligated to refund the full amount of the student's tuition, even if the student ultimately obtains employment either through the Institute or on his or her own.

As the statistics indicate, while the Institute's placement rate is exceedingly high, a number of students in each class are likely to receive a tuition refund. The tuition refund, is not viewed by the students or the Institute as a gimmick. Instead, it is our way of assuring our good faith to students with regard to the judgments that we make concerning the placement market in any city, and the likelihood that they will receive a job upon graduation.

(b) *General Practice.*—Students in the General Practice course do not receive a refund of tuition in the event that they are unplaced. The Institute does not offer a tuition refund for graduates of this course because economic factors do not permit the kind of a placement effort for each General Practice graduate which is possible for graduates of the specialty courses. Many of the firms in large cities which are candidates for General Practice graduates are not as easy to find as those firms which are candidates for specialized paralegals and do not have the same potential for repeat placement business as a alrge firm. Also, a substantial number of graduates of the General Practice course desire placement in small towns throughout the country where it is uneconomic for the Institute's placement staff to make personal visits to firms.

However, the Institute does make a placement effort for all General Practice graduates through advertising, mailings and phone follow-ups to firms in various cities throughout the country. In addition, the Institute's admission's policy is designed to spread the students thinly throughout the country so as not to flood he job market in any one city.

The result of the combined efforts of the Institute's placement staff, placement efforts by the students, and the admission's policy has been that a high percentage of graduates of the General Practice course have obtained employment within a short period of time after graduation.

(c) *Criminal Law Course.*—The majority of graduates of the Institute's Criminal Law course are expected to work for government agencies which are, by law or edict, prohibited from paying a placement fee. Therefore, the Institute will not undertake the kind of placement effort which it has undertaken with regard to graduates of the other specialty courses. Graduates of the Criminal Law course will not obligate themselves to be placed through the Institute's placement service, the Institute will not charge a placement fee to employers of these graduates, students who do not obtain employment will not receive a tuition refund and the placement efforts of the Institute will be more limited than in other courses. However, the Institute has already begun to promote acceptance of these graduates in the agencies mentioned. We expect to advertise in journals read by criminal lawyers and attend conventions of groups such as public defenders and district attorneys. The Institute has also retained a former Assistant District Attorney of Philadelphia to make promotional trips to offices of the district attorney, U.S. attorney, and defenders in cities such as Detroit, Chicago, Los Angeles, Denver, San Francisco, Pittsburgh, Atlanta, and Philadelphia, in order to open the job market for graduates of the Criminal Law course. We also expect to discuss the program with the United States Department of Justice.

3. *Who Are the Employers?*

For the most part, the employers to date have been large law firms throughout the country. The Institute also has placed graduates in over 20 banks and in a variety of corporate legal departments. The Institute has placed graduates in over 50 cities throughout the country, although the vast majority are placed in the major metropolitan areas.

4. *Placement Process*

(a) *Meetings with Firms.*—We have found that the concept which we are trying to sell to law firms and other employers is sufficiently unique that it is very difficult to describe it adequately by mail or promotional literature. Due to the lack of understanding as to what paralegals can do, how they would fit into a particular law firm and even what a paralegal is, the Institute has relied heavily on person-to-person meetings between members of its placement staff and lawyers. To this end the Institute's staff travels all over the country to meet with lawyers in their offices. These meetings generally last one to three hours per firm and may involve one or a group of attorneys. In addition, the Institute often holds seminar meetings which are attended by a group of 8 to 15 lawyers specialzing in one area of law.

(b) *Advertising.*—The Institute has done a limited amount of institutional advertising in magazines such as the American Bar Association Journal and Estates and Trusts magazine.

(c) *Conventions.*—The Institute has maintained a booth each year at the American Bar Association Convention, where members of the staff are available to talk with attorneys. The booth and the American Bar Association Journal enable us to reach many small town lawyers we are unable to reach on a personal basis in our travels.

(d) *Speeches and Program Appearances.*—Because the subject of paralegals is of increasing interest, we are frequently invited to speak before Bar Associations and participate in seminars on law firm economics. We try to provide a speaker from the Institute's staff for each such occasion to which we are invited.

5. Placement Fee and Firm Refund

As mentioned in section II(A)(3)(e) above, the Institute has adopted the unique policy of charging employers a fee which includes, in part, a subsidy of the student's tuition. The fee also encompasses the cost of placement and recruiting. The total fee charged a firm which hires a graduate of the Institute is $1800. A refund and credit schedule is applicable to the fee in the event that a graduate leaves or is asked to leave a firm within a period of one year from the date employment commences. The schedule provides a full cash refund during the first three months and then a series of credits, decreasing from 100% to 50%, toward the fee payable upon hiring another graduate of any course of the Institute in the future.

6. Placement Record

The placement record of the Institute has been discussed in section II(B)(2) above. The Institute believes strongly that its ability to succeed as an institution has largely been due to its highly successful placement record. Obviously, that record is in large part due to the large commitment of resources, in terms of staff size and money, devoted to the placement effort.

F. Follow-Up Information About Graduates

1. Starting Salary

The starting salary of graduates of the Institute's most recent classes has been approximately $8400 in most cities, with New York City being the highest at $9500.

2. Working Conditions

Most paralegals are accorded some measure of professional status. In addition, they are given a small office, where feasible, and secretarial assistance. Their vacation and other benefits in most firms is somewhere between those of a secretary and those of a lawyer.

3. Salary Increases

Salary increases have generally been in the range of 7% to 12% per year. However, some individuals have received raises as high as 25%.

4. Job Satisfaction

The question of job satisfaction is difficult to assess. There is no doubt that a certain number of trained paralegals find that the field does not meet their expectations. In addition, a good rigorous training program has a built in problem of pushing graduates to a level of skills that may not be utilized fully on the job. We endeavor to portray the field in a realistic manner and hold various special training sessions designed to make the graduates aware of the limitations and satisfactions of the job.

It is to be expected that because of the newness of field, the first people in the field may have a difficult time breaking through barriers created by the habits of lawyers built up over generations. However, we have found that with all of the problems the turnover statistics are not terribly high. Of the 715 graduates placed by the Institute or on their own, 540 (76%) are with their original employers. Thirty graduates (4%) have left their jobs to go to law school, 86 (12%) have left the field completely and 599 (84%) are still working as paralegals. Considering the problems that many of these early graduates have faced, these statistics are comforting.

G. Future Goals of the Institute

1. Additional Courses

As mentioned previously, in September the Institute will introduce its seventh course—Criminal Law. We would hope over time to introduce additional courses.

2. Student Growth

The Institute has no present plans to expand by opening additional training centers. However, we would contemplate continued and orderly growth in the student population at a rate of about 10% per year.

3. Continuing Education for Paralegals

The Institute expects to expand its activities by adding a variety of continuing education programs for graduates of the Institute and for other practicing paralegals. These programs are in the formative stage.

4. Programs for the Education of Lawyers

We believe that the next major growth in the use of paralegals can only be achieved through a large educational effort directed at training lawyers to better utilize paralegals. The Institute is in the process of formulating programs for training lawyers to utilize paralegals in the most productive possible ways.

III. LICENSING, ACCREDITATION, CERTIFICATION

A. State licensing of proprietary paralegal training schools

The Institute is licensed as a proprietary school in Pennsylvania, the state in which it is located. The Institute is also licensed in certain other states in which it solicits students: Georgia, Indiana, Michigan, Minnesota and Ohio. In general, the act of soliciting students within a state brings a proprietary school within the ambit of the state's proprietary school law. The overlapping of regulation creates a series of problems:

1. Lack of Reciprocity

In general, the requirements of the various states are somewhat similar. In some instances the states are calling for different kinds of information. However, in many instances, they all call for the same information on different forms. The problem is that there is no reciprocity between the states. Therefore, a school must comply with the laws of many states.

During the past year alone, the Institute expended staff time valued at over $4,000 just to fill out the various forms necessary and process the applications for licenses.

2. Bonding

Most states require the posting of a bond as security for the school's obligations to students. The amount of the bond is quite arbitrary as it is set by law and does not necessarily bear any relationship to the number of students solicited in a given state.

3. Differing Refund Schedules

Each of the states has its own schedule of required refunds in the event a student withdraws from a program. In order to comply with the various laws, the Institute now operates under a system in which students coming from some states receive refunds based on one schedule and students from other states receive refunds on another schedule.

4. Differing Regulations Governing Advertising

Especially in the areas of job information and placement statistics, the states have differing regulations concerning what may be said by a proprietary school. At least one state has even taken the position that we may not make factual statements concerning our placement record, although the statements are backed by accurate records. This seems to us to be a violation of the First Amendment to the United States Constitution.

5. Non-Regulation of Non-Profit Schools

We are in the rather unusual situation of having our major competition from non-profit institutions. These institutions are not subject to the kinds of regulations to which a proprietary school is subject. It is terribly irksome to be regulated where your competition is not subject to the same regulation. For example, a review of the brochures published by various non-profit institutions teaching paralegal training programs would reveal the inclusion by some institutions of irresponsible statements relating to the need for trained paralegals and the success of their graduates in obtaining employment.

B. Accreditation—Approval of Programs

1. Brief History

In 1971 the American Bar Association Special Committee on Legal Assistants (the "Special Committee") proposed a system under which the American Bar Association (the "ABA") would approve paralegal training programs. It is difficult to detemine whether it is a semantic difference or a difference in substance, but the ABA proposed to "approve programs" rather than to "accredit institutions."

The ABA proposal was designd to permit approval of two year programs offered by non-profit institutions. These programs would consist of a general course containing training in four or five areas of law. The program combined elements of general education, communication skills and paralegal skills. The paralegal component would compromise approximately one-quarter of the model curriculum. The proposal was based on the assumption that paralegals would be trained largely at junior or community colleges.

The original proposal focused on paralegal training at the undergraduate level. It did not deal with the issue of program content at the post-graduate level. Furthermore, the original proposal provided only for approval of programs taught by non-profit institutions.

Over the next several years the proposed guidelines were revised by the special Committee. A final set of proposed guidelines (the "guidelines") was presented to the House of Delegates of the ABA in August, 1973.

The final proposal permitted approval of programs taught by proprietary institutions, provided that the institution is "accredited or is eligible for accreditation by an agency recognized by the National Commission on Accrediting, the U.S. Office of Education or an officially recognized state accrediting agency."[2] In addition, the proposal permits approval of programs teaching specialized courses. The adopted guidelines also permit approval of programs at a post-college graduate level by giving students credit for an undergraduate degree. Any paralegal program is required to provide 15 credit hours of paralegal training.

In August, 1973 the House of Delegates of the ABA approved the revised Guidelines and authorized the Special Committee to begin recommending approval of qualified programs. Final approval of a program rests with the House of Delegates, which acts on recommendation of the Special Committee.

Since August, 1973 the Special Committee has been engaged in working out the mechanics of approving programs. It is expected that the Special Committee will begin processing requests for approval of programs sometime after the ABA annual meeting in August, 1974.

2. *ABA Special Committee Pilot Visit*

In the spring of 1974, the ABA Special Committee visited a small group of institutions to review their paralegal training programs and to test some of the Special Committee's proposed procedures for approving programs.

The Institute was visited by Austin G. Anderson, Chairman of the ABA Special Committee on Legal Assistants, Professor Roger A. Larson, a consultant to the Special Committee and Ann Kearney of the ABA Staff.

Prior to the visit the Institute was asked to prepare a self evaluation report. Following the visit, the visiting team submitted a report of its findings to the Institue. The "Conclusions" section of the report of the visitation team is set forth below:

> The visitation team was favorably impressed with the program being conducted by The Institute for Paralegal Training. As a single purpose institution, the Institute very effectively directs all its attention to the selection, training, and placement of candidates for paralegal positions without worrying about justtifying its existence and competing for funds as is often true for programs that are part of a comprehensive college. It was the impression of the visitors that the information provided in the self-evaluation report as well as that provided in the publicly distributed literature described the program accurately. This was confirmed through visits with students, faculty, and administrative staff. The team visited with several students who act as ombudspeople for the various programs being offered. The students are bright, articulate, and display both a strong interest in the program and a high level of satisfaction with its overall quality. They unanimously expressed the opinion that the Institute, in recruiting them, had represented all aspects of the program very accurately. They felt that a healthy relationship existed between students, faculty, and administrators, and noted the sincere efforts that have been made to make them feel comfortable and to provide whatever assistance was needed.
>
> The team sat in on three different classes and later visited with two experienced members of the teaching faculty. The conclusions were that the instructors were well-qualified and effective teachers. Furthermore, the faculty members indicated that they thoroughly enjoyed their work with the Institute, had great respect for the academic ability and diligence of their

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[2] Section 303(c). ABA Guidelines, adopted by the House of Delegates August 7, 1973.

students, and confirmed in the minds of the visiting group that a very open and congenial relationship existed between students, faculty, and administration.

There was clear evidence of the financial support necessary to maintain a strong ongoing program. Physical facilities were attractive and functional, and the officials of the program appear to have both the authority and the commitment necessary for continuing its successful operation. Therefore, with few exceptions, the program appears to be in compliance with the 'Guidelines for the Approval of Legal Assistant Education Programs.' There are, however, two areas where the program does not meet the present guidelines. The Institute does not have an advisory committee. The directors of the program maintain that the functions an advisory committee would perform are now being effectively performed in other ways. For example, guidance on matters relating to curriculum is quite effectively provided by feedback from the large number of employers, nationally distributed, who have hired the school's graduates. Similarly, the recruiting and placement staffs of the Institute provide continual information on the nature and scope of the job market. Furthermore, the active participation of approximately 65 practicing attorneys in curriculum development and instruction insures the involvement of the local legal community in the program.

Guideline 303-C stipulates that the institution offering the program must be accredited or eligible for accreditation by an agency recognized by the National Commission on Accrediting, the U.S. Office of Education or an officially recognized state accrediting agency. The directors of the Institute feel that their programs more than satisfy the requirements set forth by these various accrediting agencies. They have not, however, applied for this accreditation since up to this time they have seen no advantages associated with it. The Institute is, however, licensed in a number of states as a vocational school in order to recruit students.

3. The Importance of Approval to a Program

The Institute believes that once an approval system is in effect, it may be difficult for unapproved programs to obtain top notch students. The stigma of being unapproved will affect the willingness of parents to contribute toward tuition, and may affect the willingness of college placement officers to cooperate with the recruiting effort of the school. Undoubtedly, employers will tend to favor graduates of approved programs, especially when evaluating graduates of programs with which they are not familiar. It is also possible that certification of paralegals, whether by states or by the ABA, will be easier for those people who have completed an approved program.

4. The Institute's View of Program Approval

(a) Need.

The popularity of paralegal training in the student market is such that it is possible to sell students on programs that are highly deficient. It must be recognized that at the time the Special Committee tackled the problem of approval it was feared that the field would be inundated by proprietary schools. The irresponsibility of many proprietary schools in newly developing vocations (e.g., computer programming) was a cause for concern. In general the fear of development of a large number of proprietary programs has not been borne out. On the East Coast we know of only one othe sizeable proprietary program. We know of one or two on the West Coast. In our opinion the real danger in the field lies with junior and community colleges who may see this as a popular program, but may not have the resources and know-how to provide first-class training. Adequate protection of potential students would be aided through a discriminating approval system.

(b) Problems with Approval.

(i) It May Be Too Early.—The most serious problem in our opinion relating to approval of programs is that the field is so new that it is impossible to be certain what the training model or curriculum should be. Strict approval standards would result in a freezing of curriculum long before appropriate experimentation has been carried out. Therefore, there is a great need for the kind of flexibility now in the Guidelines. On the other hand, the Guidelines may now be so broad as to permit approval of virtually any non-profit and most proprietary programs. If that is the case it may be meaningless for a lawyer to know whether or not the person who he is hiring came from an approved program. Students also would suffer. They would derive a sense of security based on attending an ap-

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proved institution. If the profession puts little value on approval, the student's sense of security will prove ill founded.

The problem, while serious, may be unavoidable.

(ii) Two-Year Programs May Be Off Target.—In the opinion of the Institute, especially with regard to the large city placement market, it is possible that two year programs of a general nature are drawing on students who, for the most part, will not be employable in the law firm market. It has been our experience that law firms seek only the most highly qualified four year college graduates. We have serious doubts about the ability of a graduate of a general course from a community college to compete with even an untrained bright four year college graduate, let alone one from a specialized training program. If graduates of the two year programs are unable to find employment as paralegals, consistent with their expectations, after having graduated from an ABA approved program, that would tend to indicate that the Guidelines do not parallel the needs and desires of lawyers. We believe that this problem may soon exist.

In other words, we feel that the Guidelines as applied to two year colleges may work for the colleges, and may be educationally sound in theory, but may not work in the market place.

C. Certification

1. General

It seems likely that the next step after accreditation, or possibly even before accreditation, would be certification of paralegals. Certification could be undertaken by the ABA or by a state Bar, or by both. It is our understanding that legislation in California has already paved the way for a regulatory body to propose standards for certification.

2. Should Certification Be Undertaken By the States or by the ABA?

The Institute has no opinion on the question of whether certification would best lay in the hands of the states or the ABA. However, we do believe that differing certification requirements, state by state, as in the licensing of lawyers, is unnecesary and undesireable. We would favor a certification system which would achieve some degree of uniformity of requirements. Given the age and mobility of so many of the people now working as paralegals, differing state laws which might lead to recertification as one moves from one state to another would cause unnecessary hardship.

3. Some General Observations

(a) *Dual Approach.*—If the ABA adopts certification, it would almost surely adopt a dual approach. One method of certification would apply to paralegals who are graduates of an approved program. The other method of certification would cover paralegals who have either been trained on the job or have taken courses, but have not completed an approved program, or both.

A highly sophisticated certification scheme could lead to a licensing process similar to lawyers, including a "mini bar exam" with cram courses and so forth. However, if the ABA's program approval system is satisfactory, we should consider certifying, without an exam, all people who graduate from an approved institution and meet a practice requirement. A practice requirement and an exam could provide a means of equivalency for those who do not attend an approved program.

(b) *State Certification.*—There is a program relating to state certification programs. Would these tie into ABA program approval or would a state adopt one approach for all paralegals whether formally trained or trained on the job?

4. Is There a Need for Certification

(a) *Bar and Public.*—Many professional groups are certified because of their direct exposure to the public and the public's inability to protect itself against unqualified practitioners. On the other hand, so long as paralegals must operate under the supervision of a lawyer, it could be argued that the lawyer is discriminating enough as a professional that he does not need the protection of certification. The lawyer acts as a buffer to the public. In other words, is certification really necessary either to protect lawyers or to protect the public? We believe that a substantial argument can be made that it is not.

(b) *Paralegals.*—There is a desire for certification on the part of many dedicated paralegals. Certification gives well deserved recognition and status if the standards are reasonable but demanding. The desire for certification as recognition of professional status is justified and may prove a strong force in pushing certification.

IV. THE FUTURE

A. Economics for the Lawyer and Client

1. Paralegals Allow Lawyers To Profitably Do Work at a Lower Price

Paralegals have a much lower hourly billing rate than even the youngest lawyer in a law firm. We have found, for example, that on the average our graduates' time is billed at a rate of $20 per hour. The combination of salary and overhead applicable to the paralegal in a large city law firm is approximately $15,000 per year. If the paralegal is able to bill 1,500 hours at $20 an hour, that would yield a gross billing of $30,000 a year. After subtracting the paralegal's overhead the firm derives a reasonable profit from use of the paralegal.

If it takes the paralegal twice as long to perform a task as it would have taken a lawyer whose time is billed at $40 an hour, then there is no money to be saved by the client. On the other hand, many of the tasks performed by paralegals can be performed for a total hourly charge, i.e., billing rate times hours, that is less than a lawyer's. This is even true when comparing the costs of a paralegal to a young lawyer, because lawyers are not trained in law school to do the every day work of legal practice, while paralegals are trained to do just that type of work.

2. Will Use of Paralegals Save the Public Money?

Indications are that many matters which are presently billed on an hourly rate are being billed for less as they are shifted to paralegals. There are other situations where these savings are not passed on to the public. For example, certain areas of law, such as estate administration, are billed on fees fixed by a court, normally as a percentage of the estate or trust. In addition, legal work on many substantial matters such as public offerings, is billed at a fee negotiated in advance, which probably does not reflect savings engendered by paralegals. In these instances the savings will not be passed on to the public.

It has also come to our attention that in certain large litigation matters such as class actions, courts which must approve the fee for the attorney for the class have been unwilling to take paralegal time into account. In other words, the courts are considering paralegal time to be part of general office overhead. If the court is then unwilling to grant the lawyer a substantially increased hourly rate, the court is penalizing the more efficient lawyer and ultimately his client.

Ultimately, we believe that the use of paralegals will tend to make the cost of legal services more reasonable and increase the profitability of lawyers. In other words the dividend that may be achieved will probably be split between the clients.

3. Future Utilization in Large and Medium Size Firms

We believe that firms of 15 lawyers and up will vastly increase their use of paralegals, especially as they learn to better utilize them. Over time, these firms will hire fewer new attorneys, a problem of no small consequence given the tremendous increase in law school enrollment.

4. Small Firm Use of Paralegals

Smaller firms of 1 to 5 lawyers have a limited ability to absorb paralegals. Often, the lawyers have a very general practice, which means that the training received by the paralegal cannot possibly fit their practice as well as it would for a specialist. Therefore, more time-consuming and costly on the job training is required. This is especially difficult because of the manpower shortage under which these firms often operate. In addition, the increased overhead presented by the paralegal is often not feasible in such a firm because the practice of many of these firms is simply not growing at any appreciable rate. The future for use of paralegals in smaller firms may lie mainly in the training of secretaries to function as both secretaries and part-time paralegals.

5. Changes in Practice by Virtue of Prepaid Legal Services

The past several years has seen the introduction of prepaid legal services, a trend which will undoubtedly grow. The firms involved in this type of practice tend to develop highly specialized structures because the work they handle falls into a routinized pattern. Unlike the large law firm, they depend economically on the profitable processing of a high volume of low fee matters. The use of paralegals can make the difference between processing low fee work at a profit rather than a loss. These firms, therefore, present a very fertile area for the employment of large numbers of paralegals.

B. Training Institutions

In our opinion the biggest problem facing training institutions is the possibility that, while the field is growing, institutions may be turning out too many paralegals for the market place to absorb. It is incumbent upon institutions to keep careful track of their graduate placement records to be certain that the goals of the students are being achieved. Non-profit institutions are subject to this problem to as great an extent as are proprietary schools.

Recently there has been a great deal of publicity, including articles in such national magazines as Business Week, which tends to create the illusion of a vast paralegal job market at the present time. Our experience has been that this is totally inaccurate. The growth potential is there. However, until it is realized, it is possible that many students will find that the market is not yet ready for the training they have received. For a student who is trained today, there is little solace in the fact that a job will be available three years down the road.

Summary

The use of paralegals has had a dramatic impact on the way law is practiced in the United States. This impact can be expected to increase year by year. Increased use of paralegals will benefit the public and lawyers and will create a new job market for a group of people who tend to be economically underutilized at the present time.

However, the very newness of the field requires that training institutions, program approval, and certification of paralegals be carried out with extreme caution, lest the field be overregulated and/or oversold to prospective students.

The field has tremendous potential. However, unless institutions turn out only the most qualified people, lawyers will be dissatisfied with the use of paralegals, students will stay away from the field because of inadequate placement opportunities, and the public and the profession will never reap the full benefits that could be achieved.

The Institute wishes to thank the Subcommittee for the opportunity to present its views.

Respectfully submitted,
The Institute for Paralegal Training.

By PAUL E. SHAPIRO.

APPENDIX A—COURSE DESCRIPTIONS

CORPORATE LAW CURRICULUM

1. *Introduction to the Corporation.*—The Model Business Corporation Act and selected state corporate laws will be examined in order to familiarize the student with the concept of a corporation as well as the basic law governing its formation and operation.

2. *Formation and Structure of Corporations.*—The lawyer's Assistant will learn to prepare initial and amended articles or certificates of incorporation, satisfy state filing and advertising requirements, draft pre-incorporation subscriptions and draft or modify by-laws.

3. *Shareholders and Directors Meetings.*—Students will receive instruction and practice in preparing initial incorporators' or directors' minutes, waivers and notices of meetings, repetitive resolutions whether in the form of written consents or actual meetings, agenda, scripts and ballots for directors' and shareholders' meetings.

4. *Corporate Equity and Debt Securities.*—This section of the course will focus upon the characteristics of debt and equity securities as well as the variety of securities within each category. Students will learn to prepare stock certificates, maintain stock ledgers and books and prepare drafts of securities.

5. *Corporate Distributions.*—The student will learn to draft resolutions authorizing cash and stock dividends and stock splits as well as resolutions relating to spin-offs, liquidations and dissolutions. In addition the student will prepare the forms required by the state and by the Internal Revenue Service in connection with the liquidation and dissolution of corporations.

6. *Qualification in Foreign Jurisdictions.*—There will be an introduction to the concept of "doing business". Students will learn to draft qualification papers, withdrawal from qualification and periodic and special reports.

7. *Employment Agreements.*—The Lawyer's Assistant will learn to draft an employment agreement containing frequently used terms including "non-competition", "trade secrets" and "stock option" provisions.

8. *Stock Options.*—Students will analyze and draft qualified stock option plans and stock option agreements.

9. *Stock Restriction Agreements.*—A typical buy-sell agreement will be reviewed paragraph by paragraph. Students will be trained to draft a comparable agreement and to draft the corporate resolutions necessary to approve the transaction.

10. *Regulation of Public Sales of Securities.*—The Lawyer's Assistant will be trained to prepare blue sky memoranda and suporting material and forms for the registration of securities under blue sky laws. In addition the Lawyer's Assistant will assist in compiling information and documents required for Registration Statements under the Securities Act of 1933.

11. *Additional Documents Relating to the Public Sale of Securities.*—Students will learn to draft an underwriting agreement, as well as powers of attorney and resolutions authorizing the sale of securities, registration with the various regulatory agencies and the execution of the underwriting agreement.

12. *Securities Exchange Act of 1934.*—Lawyer's Assistants will be trained to know when and how to prepare Form 3 and 4 reports, Form 8–K, 10–K and 10–Q reports and the Form 10. In addition they will be trained to draft proxy materials for a shareholders' meeting at which certain routine events occur, such as the election of directors, adoption of a stock option plan, selection of auditors and amendments to the articles or certificate of incorporation or by-laws.

13. *Listing Application to Stock Exchanges.*—Students will prepare drafts of corporate resolutions relating to listing of securities. In addition, they will review the listing application itself and various supplemental forms required by the exchanges.

14. *Acquisition and Merger Agreements.*—Lawyer's Assistants will learn the different types of acquisitions and merger, the statutory requirements of such a transaction (including procedures required to comply with Bulk Sales Acts), and the customary range of provisions that appear in the agreement, including affirmative convenants, representations and warranties, indemnifications and escrow provisions, deferred pay-outs and registration rights. They will be trained to prepare a closing agenda and papers and prepare the necessary corporate resolutions.

15. *Closing Papers and Closing Binders.*—Lawyer's Assistants wlil be aware of the various closing documents necessary to consummate each of the transactions covered in the course. They will be able to prepare or obtain the officers' certificates, certified resolutions, encumbency certificates, good standing certificates, tax lien certificates, etc. They will also be able to prepare closing agenda, closing papers and a binder for the transaction.

ESTATES AND TRUSTS CURRICULUM

1. *Introduction to Estates and Trusts.*—Students will be introduced to the basic concepts of intervivos trusts, testamentary trusts and estates and how they are created and administered.

2. *Probate.*—The Lawyer's Assistant will learn to prepare for probate in both formal and informal jurisdictions. They will learn to gather the necessary information and draft and file applicable documents for both testate and intestate estates.

3. *Asset Accumulation and Payment of Debts.*—Students will be trained to aid the lawyer in discovering, gathering and valuing the assets of a decedent. This will include instruction in such tasks as changing record ownership of property to the executors, obtaining social security, medicare and veteran's benefits, etc. In addition, the Lawyer's Assistant will be trained to prepare the inventory of assets and aid the executor in the payment of the decedent's debts.

4. *Preparation of Federal Estate Tax Return.*—A major part of the course is devoted to teaching students to prepare a Federal Estate Tax return. Many basic concepts of property law and federal estate taxation will be explored through a schedule by schedule study of the return.

5. *Preparation of Federal Income Tax Returns.*—Students will be introduced to the preparation of individual income tax returns. Special emphasis will be placed on the preparation of the final lifetime return and fiduciary income tax returns for both estates and trusts. The Lawyer's Assistant will be familiar with the interrelationships among the federal estate tax, the fiduciary income tax and the income tax of beneficiaries.

6. *State and Local Taxation.*—Students will be introduced to the returns required for state gift, inheritance and estate taxes. To a lesser extent, this section of the course will also deal with state income taxes and real and personal property taxes.

7. *Formal Accounting.*—The Lawyer's Assistant will be introduced to the process of fiduciary accounting. The concepts of principal and income, disbursements and distributions and reconciling an account with the assets on hand will be covered. Students will explore the procedures of a court accounting in both formal and informal jurisdictions.

8. *Settlement by Agreement.*—Students will be prepared to draft a family agreement and distribute assets in cases where no court accounting is desired.

9. *Distribution of Assets.*—Students will learn how to take all the steps necessary to accomplish the actual physical distribution of assets from an estate or trust. This section will also teach students to prepare whatever court filings are necessary to terminate the administration of an estate or trust.

10. *Gifts and Federal Gift Tax Return.*—Lawyer's Assistants will learn the legal elements involved in a gift. They will be taught to prepare the documents required to transfer property by gift and to prepare and file, when necessary, federal gift tax returns.

11. *Estate Planning and Drafting.*—Students will be prepared to help lawyers in estate planning and drafting by assembling relevant information, making estimated tax calculations, and calculating liquidity requirements. Students will learn the fundamentals of will and trust drafting so that they will be able to assist lawyers in preparation and periodic review of these documents.

12. *Estate Record Keeping and Office Systems.*—The Lawyer's Assistant will be prepared to keep filing systems and accounting records for both large and small estates. Students will be introduced to modern office systems aimed at assuring that work is accomplished at the appropriate time, that both the lawyer and the client are informed of progress, and that billing is kept current. In addition, students will learn to install and monitor systems for the periodic review of estate plans.

REAL ESTATE CURRICULUM

1. *Introduction to Real Property.*—Students will be introduced to background concepts relating to the ownership, sale, leasing, financing, and governmental regulation of improved and unimproved land.

2. *Survey and Legal Description.*—The Lawyer's Assistant will learn to order and read surveys and to prepare legal descriptions for insertion in deeds, mortgages and other documents.

3. *Recording Statutes.*—Statutes providing for the recording of documents relating to real estate will be studied. The Lawyer's Assistant will be trained to understand what types of documents must be recorded and to carry out the actual recording.

4. *Title Abstracting.*—The Lawyer's Assistant will learn the elements of searching title to real estate and preparing an abstract to be used at the time of a purchase, mortgage or lease. In addition, students will be trained to read title reports and abstracts prepared by title companies or lawyers for the purpose of obtaining documents necessary to clear title at a settlement or closing.

5. *Title Holder.*—Individual, partnership, joint venture, straw and corporate ownership of real estate will be examined. The student will train to form title-holding corporations and to prepare the documentation required where title is held by a straw party or corporation. Partnership and joint venture ownership will be dealt with more fully in Chapter 11.

6. *Deeds.*—Students will learn to prepare the various types of deeds in common use. Deed forms used in several states will be examined and the differences analyzed.

7. *Mortgages.*—The Lawyer's Assistant will study mortgage financing with an emphasis on learning to prepare mortgages, notes and the multitude of supporting documents required for construction and permanent loan closings, such as security agreements, declarations of no-set off, performance bonds and corporate resolutions. In addition, students will be trained to prepare and title the documentation involved in mortgage foreclosures.

8. *Governmental Control Over Land Use.*—Students will be trained to assist the lawyer in applying for and obtaining zoning, building, occupancy and other similar permits required by local governmental authorities.

9. *Leasing Real Estate.*—Students will review the provisions of standard residential, commercial, shopping center and net leases in great detail. They will be

trained to draft a variety of leases, from simple residential leases to more complex commercial and shopping center leases.

10. *Buying and Selling Real Estate.*—Students will learn the steps necessary to buy and sell real estate by examining purchases and sales of properties ranging from homes through multi-million dollar industrial and commercial properties. They will be trained to prepare agreements of sale covering certain of the transactions studied.

11. *Partnership and Joint Venture Agreements.*—Students will study the Uniform Partnership and Limited Partnership Acts. They will learn to prepare an initial draft of general and limited partnership agreements as well as joint venture agreements.

12. *Construction Contracts.*—The Lawyer's Assistant will learn to prepare simple construction contracts with an emphasis on A.I.A. and bank forms.

13. *Settlements and Closing.*—The events which take place at a settlement or closing for the purchase and/or mortgaging of real estate, as well as the role of the Lawyer's Assistant in preparing for the closing, will be the subject of the final section of the course. Students will be trained to obtain or prepare, as the case may be, tax receipts, lien clearances, corporate resolutions, pay-off statements, etc. In addition, they will be trained to prepare a binder of the transaction.

LITIGATION CURRICULUM

1. *Introduction to Litigation—An Overview.*—Students will be introduced to the differences between civil and criminal litigation. While there will be references throughout the course to criminal litigation, the emphasis will be on civil litigation.

The student, in this chapter, will be exposed to the basic framework or rules which govern the law suit, the manner in which legal priciples are developed by precedent and the types of relief that are available.

2. *Courts and their Jurisdiction.*—Students will learn of the variety of state and federal courts and the differences in the scope of their jurisdiction. By the use of selected federal and state laws and rules, they will be exposed to such concepts as "in personam", "in rem" and "subject matter" jurisdiction. In this and other parts of the course, particular emphasis will be placed on the Federal Rules of Civil Procedure and the Judicial Code.

3. *Substantive Law.*—In order to prepare the student to assist a lawyer in a lawsuit, a rudimentary understanding of certain major areas of substantive law is essential. This chapter will expose the student to the broad outlines of law in the areas of anti-trust, contracts, negligence, shareholder derivative actions and fraud (with particular reference to Rule 10b–5 under the Securities Exchange Act of 1934).

4. *Investigation of Facts.*—Students will learn how to assist lawyers in the initial interview and how to take the client's "history." The student will also be taught techniques for reviewing the client's documents and cataloging the information obtained.

5. *Commencement of the Lawsuit and Preparation of Pleadings and Motions.*—Students will learn how to assist lawyers in the commencement of lawsuits by ascertaining the correct names of the parties, helping to gather facts which establish that jurisdiction exists, assisting in drafting simple motions and pleadings and providing defendants with the required notice.

6. *Discovery.*—Students will develop an appreciation for the kinds of information sought through discovery and will learn how to gather the relevant information, prepare certain types of interrogatories and answers to interrogatories, arrange depositions and medical examinations and make requests for document inspection.

7. *Preserving Facts and Preparation for Trial.*—A significant portion of the course will be devoted to training students to digest and index depositions, interrogatories and documents so that information within these materials can be made readily available for the lawyer. The student will also be introduced to techniques for preparing chronologies of the facts as well as charts and other visual-aids useful in lawsuits, such as anti-trust litigation, involving significant amounts of data.

8. *Trial.*—To help the Lawyer's Assistant in undertaking work for an attorney and to give an overview of the litigation process, students will learn the various phases through which a trial proceeds.

9. *Decision and Settlement.*—Lawyer's Assistants will learn to draft releases and prepare and record settlement agreements, and will study how to assist lawyers in the collection of judgments.

10. *Post Trial Motions and Appeals.*—Students will review the mechanics of challenging a court decision and the procedure for staying the judgment of the court until an appeal has been taken.

11. *Techniques of Legal Research.*—In order to assist lawyers who are preparing briefs or memoranda of law, students will learn how to use various legal research tools such as indexes, digests, Shepards, treaties and the West "key number system." Students will also be able to do "cite checking" and "proof checking" of the legal citations.

12. *File Maintenance and Docket Control.*—For a busy litigation lawyer who represents many different clients in a wide variety of lawsuits, it is essential that he have a systematic procedure for maintaining all of the documents, paperwork and evidence which are involved in each case. Students will learn various techniques for keeping track of the paperwork as well as the court dockets.

PROFESSIONAL ASSOCIATION AND EMPLOYEE BENEFIT PLANS CURRICULUM

1. *The Professional Association.*—Students will learn the basic concept of a corporation and the unique attributes of a professional association. They will learn to prepare initial and amended articles or certificates of incorporation, satisfy filling and advertising requirements, draft pre-incorporation documents, draft or modify by-laws and prepare notices, minutes and consents.

2. *Shareholders' and Employment Agreements for the Professional Association.*—Students will review in detail a typical buy-sell agreement and will learn to draft such an agreement. Students will also learn to draft employment agreements for use in a professional association.

3. *Introduction to Deferred Compensation.*—Students will be introduced to the most common types of qualified deferred compensation plans and the roles of lawyers, actuaries and others in the development and operation of such plans.

4. *Setting Up the Plan.*—The Lawyer's Assistant will learn to gather data required for the establishment of each type of plan, to prepare directors' and shareholders' resolutions establishing plans and trusts, to prepare plan and trust outlines and to prepare employee communications documents and brochures.

5. *Contribution-Oriented Plans.*—Students will study a typical profit-sharing plan, paragraph by paragraph, and will be introduced to frequently used variations from the fundamental provisions. Students will learn to draft profit-sharing money-purchase pension, thrift or savings and stock purchase plans.

6. *Benefit-Oriented Plans.*—Students will be taught to draft typical flat and unit benefit pension plans. Plans with variable features, such as "cost of living" and "variable annuity" features, will also be studied as will "assumed benefit" provisions.

7. *Integration.*—The Lawyer's Assistant will be trained to integrate plans with Social Security benefits. Special attention will be directed to the impact on retirement benefit formulas of early retirement, disability and pre-retirement death benefits. Students will also be taught to draft integration provisions applicable when plans include joint-and-survivor, period certain and refund feature payout options.

8. *Retirement Plans for the Self-Employed.*—Students will be trained to draft HR-10 (Keogh) plans and will learn the special limitations applicable to such plans. Special emphasis will be placed on the problems encountered when a professional practice is incorporated.

9. *Master, Prototype and Multi-Employer Plans.*—Students will learn the particular considerations that must be reviewed and provisions that must be included in drafting general purpose plans designed to meet the needs of a variety of employers.

10. *Trust and Custodial Agreements.*—Students will study a typical trust agreement suitable for use with a bank-trusteed or individually-trusteed plan. Variations necessary to accommodate insurance and annuity contracts, split-funding and sub-trust arrangements will be reviewed. In addition, students will be introduced to permissible trust-substitute arrangements and will learn to draft a custodial agreement for use with certain non-trusteed plans.

11. *Initial Agency Filings.*—Lawyer's Assistants will be trained to prepare filings with the Internal Revenue Service, the Department of Labor and S.E.C., including those filings required to secure Letters of Determination from the IRS. Students will also be made aware of certain state filing requirements.

12. *Administration.*—Students will study the administrative duties of plan managers, administrative committees and trustees. They will also review an-

nual resolutions, committee and trustee records of proceedings and annual reports to employees and administrative agencies. Instruction will be given on how to complete IRS forms 4575 (relating to trast fund investments), W-2P and W-4P (distributions and withholding), 990-P (trust tax return), 2950 and 2950SE (statements in support of deduction), 4848 (employer's return), 4849 (trust financial statement), Department of Labor form D-2, S.E.C. form 11-K and various state forms.

13. *Amendment, Modification and Merger of Plans.*—The Lawyer's Assistant will learn how to amend plans and trusts, how to effect a simple plan and trust merger of like plans, and how to meet agency filing requirements.

14. *Termination of Plans.*—Students will learn to draft necessary termination documents and to complete appropriate agency forms including IRS form 4576.

15. *Other Executive Compensation Plans.*—Students will be introduced to benefit plans for key personnel. Non-qualified programs and stock options will be examined and examples of each will be reviewed.

16. *Proposed Legislation.*—Proposals relating to mandatory vesting, portability, minimum benefits, the "Rule of 50," deductibility of contributions made by individuals and federal reinsurance of benefits will be examined.

Appendix B—Administrative Staff

DIRECTORS

Paul E. Shapiro

B.A. University of Pennsylvania, 1964; LL.B. University of Pennsylvania Law School, 1967 (Cum Laude, Editor of Law Review); Associated with the law firm of Wolf, Block, Schorr and Solis-Cohen, Philadelphia, Pennsylvania, from September, 1967 to March, 1970. *Areas of responsibility:* Training and Program Development.

B. Barry Swedloff

B.S. Drexel University, 1962 (Phi Kappa Phi). *Areas of responsibility:* Admissions and Placement.

FACULTY AND STUDENT AFFAIRS

Caroline S. Laden

B.A. Cornell University, 1962 (Honors in Economics); LL.B. Harvard Law School, 1965 (Williston Drafting Prize); Law Clerk, Common Pleas Court, Philadelphia, Pennsylvania, from September, 1965 to August, 1966; Assistant Counsel, The School District of Philadelphia, from September, 1966 to June, 1969 and from May, 1971 to June, 1972; Associated with the law firm of Dilworth, Paxson, Kalish, Levy and Coleman, Philadelphia, Pennsylvania, from September, 1969 to May, 1971. Dean of Faculty and Students.

Ruth E. Scott

A.B. Radcliffe College, 1961; M.A.T. Yale University, 1963 (Ford Scholarship); Oxford University, Summer, 1964; Assistant Regional Director of Admissions, Princeton University, Princeton, New Jersey, from July, 1969 to June, 1970; Admissions Officer, University of Pennsylvania Law School, Philadelphia, Pennsylvania, from June, 1970 to April, 1972; Assistant to the Provost, University of Pennsylvania, Philadelphia, Pennsylvania, from April, 1972 to September, 1972. Associate Dean of Faculty and Students.

Cathy B. Abelson

University of Connecticut, 1966–1968. Assistant to the Dean.

ADMISSIONS

Molly S. Lunkenheimer

B.A. Wheaton College, 1968; Corporate Law Course, Institute for Paralegal Training, 1970. Director of Admissions.

Carol J. Brown

B.A. Allegheny College, 1972; Estates and Trusts Course, Institute for Paralegal Training, 1972. Assistant Director of Admissions.

Judith Current

B.A. Vanderbilt University, 1973; Real Estate Course, Institute for Paralegal Training, 1973.

Catharine S. Davies
B.A. Swarthmore College, 1973; Corporate Law Course, Institute for Paralegal Training, 1973.

Jan Klucevesk
Indiana University of Pennsylvania, 1967–1969. Admissions.

Bea Glidden
Admissions.

PLACEMENT

Charlotte H. Parker
B.A. Smith College, 1970; Corporate Law Course, Institute for Paralegal Training, 1970; Assistant to the Director of The Institute, May, 1971 to June, 1974. Director of Staff Training.

Sharyn N. Wells
B.A. Ursinus College, 1970; Real Estate Course, Institute for Paralegal Training, 1971.

Julie A. Conover
B.A. Pennsylvania State University, 1970; Litigation Course, Institute for Paralegal Training, 1972.

Joan M. McClatchy
B.A. Trinity College, 1973; Real Estate Course, Institute for Paralegal Training, 1973.

Catharine Simler
B.A. Swarthmore College, 1973; Estates and Trusts Course, Institute for Paralegal Training, 1973.

Michael Dickerman
B.A. Temple University, 1971; General Practice Course, Institute for Paralegal Training, 1972; Paralegal with the law firm of Kleinbard, Bell and Brecker, Philadelphia, Pennsylvania, from October, 1972 to January, 1974.

Julie G. Wood
B.A. Brown University, 1973 (Magna Cum Laude); Litigation Course, Institute for Paralegal Training, 1974.

Elaine G. Dushoff
B.A. Temple University, 1962. Placement Staff Coordinator.

Elen Epstein
B.S. Hofstra University, 1963. Placement Coordinator.

Madeleine S. von Hemert
B.A. Lake Forest College, 1971. Placement Coordinator.

Senator TUNNEY. Our next witness is Mr. William Fry, executive director of the National Paralegal Institute and he will be accompanied by Mr. Jim Miller, a paralegal with Community Legal Services, Philadelphia.

Because of the unexpected turn of events with that executive session of the committee, I'm running behind in time and I would like, if possible, for you two—for both of you to summarize your statement to the point it can be included in a 15-minute time frame.

I'm just going to have to notify you in 15 minutes because I have a couple of questions I'd like to ask you and then we're going to have to go to one of the other witnesses.

Mr. FRY. Thank you.

THE STATEMENT OF WILLIAM FRY, EXECUTIVE DIRECTOR OF THE NATIONAL PARALEGAL INSTITUTE, WASHINGTON, D.C.

Mr. FRY. I am William Fry, the executive director of the National Paralegal Institute, a nonprofit corporation funded by OEO and

HEW to promote the training and utilization of paralegals in the public law sector. We design and deliver training programs for paralegals, and do studies, experiments, and demonstrations on the training and utilization of paralegals. Among our current projects is the the design of model legislation for States to use in moving toward accrediting paralegal training. I believe I have been asked to appear before the subcommittee in order to explain the use of paralegals in the public sector and to detail our concerns on the accrediting of paralegal training programs.

I believe that this hearing and the ultimate recommendations of the subcommittee are of potentially great importance to the delivery of legal services to citizens. The paralegal movement is the most significant development that I know of for dramatically changing the access of citizens to legal rights and remedies. Paralegals can offer services to millions of citzens whom the legal profession cannot now serve.

The issue of accreditation of paralegal training is of critical importance to this new occupation. The group which possesses the authority to accredit paralegal training will set the shape of the occupation, and will ultimately have a substantial influence on the question of whether paralegals will become a major force in improving legal services and the legal profession.

Let me explain why I think accrediation is so important. To do so I will briefly describe what I see happening in the paralegal movement.

The use of paralegals has been generally recognized and supported by bar associations and others for at least 5 years. The movement has tended to divide into two groups: private law and public law paralegals.

We heard from Mr. Shapiro a description of the use of paralegals in the private law; so I am going to abbreviate my remarks by skipping a section in which I describe their utilization in ways very similar to those he described.

Senator TUNNEY. That will be included in the record as though read.

Mr. FRY. The presence of paralegals in law firms often results in considerable economies although I know of few instances in which this has led either to substantial lowering of fees to clients or to a notable extension of legal services to those who cannot now afford an attorney. I say this not by way of criticism but as a contrast to the public law sector where paralegals are utilized quite differently and offer the possibility of a major extension both of the quality and quantity of legal services available. I take the public sector to include OEO legal services to the poor, HEW-financed legal services, public defender agencies, prosecutors offices, government agencies, and the thousands of tenant organizations, senior citizen projects, and other service organizations which deliver some form of legal assistance.

Public law paralegals have a much larger scope of responsibility and function than their counterparts in the private law. In OEO legal services they interview clients, investigate cases, deal with public agencies in resolving legal disputes and argue thousands of cases before administrative agencies, as permitted by Federal and State law. In some OEO legal services offices, paralegals are specialists in areas such as Social Security disability, welfare, and workmen's compensation. In these areas, they maintain their own caseloads and represent clients in cases from the beginning through to an administrative hearing. There is virtually no possibility that either federally funded lawyers or private attorneys could take over the work done by these paralegals.

No one is certain how many paralegals exist in either the public or private law sectors. In the public law sector, the Federal Civil Service Commission has counted 30,000 law related jobs, some of which are clearly paralegal functions. In OEO legal services, we believe there are in excess of 1,000 paralegals scattered among the 280 legal services projects in the country. The many hundreds of community based projects serving senior citizens, tenants, welfare recipients, and consumers are beginning to use paralegals to help their clients with legal problems.

Given the wide variety and growing numbers of public and private law paralegals, the question arises of how paralegals should be trained. There is a total lack of empirical knowledge on the best kind of training paralegals should receive and indeed it is obvious that paralegals need different training for different functions. In private law offices, some attorneys prefer to employ competent people who have not received any special paralegal training, since they choose to teach the particular work to be assigned in their own way. Other law firms have looked to the Institute for Paralegal Training in Philadelphia and there are many experiments in paralegal training underway ranging from community college-based short term training for legal secretaries, to 1- and 2-year college-based programs giving general law background.

In the public law sector, training is usually provided for a specific function. Thus, legal services paralegals may be trained in welfare, consumer, divorce, and domestic relations or landlord-tenant law, or in the skills needed for administrative hearing work.

It is obvious to me that a wide variety of training is needed for paralegals, and at this point in history experimentation should be encouraged.

Against this background, the subject of accreditation of paralegal training becomes vitally important. In the United States, accreditation is considered voluntary—that is, educational institutions join together to recognize one accrediting agency to establish rules about related educational programs. Despite this voluntariness, the consequences of accreditation are far ranging and important. Because students, employers, and educational institutions all pay attention to whether a training program is accredited, the promulgation of rules for accreditation may have a stifling effect on experimentation, and a strong tendency to lead towards only one way of training.

There are two things to fear from accreditation. The first is that it will be done prematurely before real knowledge and understanding is obtained about the connection between education and the job to be done. The second is that the group to establish and promulgate accreditation rules will not be representative of those who by experience and knowledge, can produce balanced, rational, and appropriate rules.

As to the first point, that accreditation should not be established prematurely, it seems clear that we have not yet reached the state of knowledge and understanding of the paralegal movement for rigid rules to be set. It should be noted that paralegals present no new threat either to society or to the legal profession. I do not know of a single case in which an OEO Legal Services paralegal has been found to have violated ethical or unauthorized practice rules.

There is an extraordinary amount of healthy experimentation under way in paralegal training. Some believe that the best training for paralegals is to show them systematically how to handle every step of a particular kind of case. This is the "systems" approach. Others believe that short-term intensive training is the most suitable, and have designed courses which last anywhere from a week to 3 months, producing a paralegal knowledgeable and skilled in one substantive law area. Yet another approach is commonly found in the colleges which prepare generalists. Finally there are those who believe that on-the-job training for paralegals is most suitable.

There is no evidence that any of these approaches is superior to any other. Moreover, the variety of people doing paralegal work makes it plain that no single approach will be suitable for all.

The only movement toward accreditation of paralegal training has emanated from bar associations. In August of 1973, the American Bar Association promulgated standards for college-based training programs, and its special committee dealing with paralegals is currently working on standards for all other paralegal training. Recently, the California Bar Association promoted legislation in Sacramento which would lead to accreditation of paralegals. That legislation is still pending.

It is my view that a committee of lawyers, of the American Bar Association or of any other bar association, is a wholly inappropriate group to establish accreditation for paralegal training.

The issuance by the American Bar Association of rules purporting to fix guidelines for paralegal training is, in my view, a disservice to the paralegal movement. The guidelines suggest standards which have no relevance to the needs of paralegals, and suggest that a single monolithic approach to paralegal training will fit the needs of all.

The tendency of bar associations to establish rules governing new forms of legal practice which coincidently serve to protect the interest of lawyers is well recognized and not surprising. Indeed, every occupation should organize to promote its own best interests, and I hope that paralegals will do the same. A problem arises, however, when one professional organization undertakes to establish rules for a subprofessional organization. As the National Commission on Accrediting rightly suggests, there is a conflict of interest in this. Moreover, private attorneys are not experts in the area of training, nor are they particularly knowledgeable about the far-ranging needs of the public law sector where paralegals have their greatest role to play.

The paralegal movement has extraordinary potential for extending legal rights to citizens, and its growth and development is of great public interest.

Because the accreditation of paralegal training is bound to have a significant impact on the direction of the movement, a large-scale study of paralegal accreditation is necessary. This is all the more true because bar association and others are inclined to prematurely preempt the field.

I would urge that this committee recommend legislation to establish in an appropriate Government agency or as part of a broadly representative nongovernmental entity, a study group with a mandate to analyze the paralegal field and produce both empirical data and recommendations for paralegal accreditation. In my full statement, submitted for the record, are some suggestions about the functions that such a study might undertake, and I will be glad to discuss such a study further with the committee's staff.

Let me conclude by saying that there are millions of citizens in the country who cannot afford legal counsel and who suffer the loss of rights and remedies which in many cases might be simply obtained. Paralegals have already shown that they can provide valid and useful services to such people. It is within the power of Congress to promote a more rational and promising utilization of paralegals, by mandating a study which can lead to a sound accrediting policy, in contrast to the premature and stifling approach suggested by some members of the organized bar.

Senator TUNNEY. Thank you very much for your statement, and for summarizing it. And your entire statement will be included in the record as if read. And you submitted to the committee a statement that was made before the California Legislature. Do you want that to also be incorporated in the record following your testimony?

Mr. FRY. I would appreciate that.

[The statement follows:]

TESTIMONY OF WILLIAM R. FRY, EXECUTIVE DIRECTOR OF THE NATIONAL PARALEGAL INSTITUTE

I am William R. Fry, the executive director of the National Paralegal Institute. We are a non-profit corporation funded by OEO and HEW to promote the training and utilization of paralegals in the public law sector. We design and deliver training programs for paralegals, and do studies, experiments and demonstrations on the training and utilization of paralegals. Among our current projects is the design of model legislation for states to use in moving toward accrediting of paralegal training. I believe I have been asked to appear before the Subcommittee in order to explain the use of paralegals in the public sector, and to detail our concerns on the accrediting of paralegal training programs.

This hearing and the ultimate recommendations of the Subcommittee are of potentially great importance to the delivery of legal services to citizens. The paralegal movement is the most significant development I know of for dramatically changing the access of citizens to legal rights and remedies. Paralegals can offer services to millions of citizens whom the legal profession cannot now serve.

The issue of accreditation of paralegal training is of critical importance to this new occupation. The group which possesses the authority to accredit paralegal training will set the shape of the occupation, and will ultimately have a substantial influence upon the question of whether paralegals will become a major force in improving legal services and the legal profession.

Let me explain why I think accreditation is so important. To do so will require some description of the paralegal movement.

The use of paralegals has been generally recognized and supported by bar associations and others for at least five years. The movement has tended to divide into two groups: private law and public law paralegals.

Private law firms, particularly large ones, employ paralegals to work behind the scenes. These paralegals usually specialize in such areas as corporate work, SEC, anti-trust, or real estate. It appears that over 90% are women college graduates, many of whom are interested in going to law school. They prepare documents, do research, collate complex files, complete forms, and do other behind the scenes work. Their presence in a law firm often results in considerable economies, although I know of few instances in which this has led either to substantial lowering of fees to clients, or to notable extension of legal services to those who cannot now afford an attorney. I say this not by way of criticism, but as a contrast to the public law sector where paralegals are utilized quite differently, and offer the possibility of a major extension both of the quality and quantity of legal services available. I take the public sector to include OEO Legal Services to the poor, HEW-financed legal services, public defender agencies, prosecutors offices, government agencies, and the thousands of tenant organizations, senior citizen projects, and other service organizations which deliver some form of legal assistance.

Public law paralegals have a much larger scope of responsibility and function than their counterparts in the private law. In OEO Legal Services they interview clients, investigate cases, deal with public agencies in resolving legal disputes and argue thousands of cases before administrative agencies, as permitted by Federal and state law. In some OEO Legal Services offices, paralegals are specialists in areas such as Social Security disability, welfare, and workman's compensation. In these areas they maintain their own caseloads and represent clients in cases from the beginning through to an administrative hearing. There is virtually no possibility that either federally funded lawyers or private attorneys could take over the work done by these paralegals.

One distinguishing feature of public sector paralegals is that they operate in agencies which charge no fees for their services. Thus economies show up in a great profit margin for the agencies but in the greater quantity and quality of service to be provided for the same dollar amount. Because public agencies are notoriously under-funded, they constantly seek ways to do their jobs more efficiently and for less cost. Many, such as OEO Legal Services to the poor, also are subjected to demands for service which far exceed their capacity. In these settings, paralegals are used to serve more people for a given amount of money.

No one is certain how many paralegals exist in either the public or private law sectors. In the public law sector, the Federal Civil Service Commission has counted 30,000 "law related" jobs, some of which are clearly paralegal functions. In OEO Legal Services, we beileve there are in excess of 1,000 paralegals scattered among the 280 Legal Services projects in the country. The many hundreds of community based projects serving senior citizens, tenants, welfare recipients, and consumers are beginning to use paralegals to help their clients with legal problems.

Given the wide variety and growing numbers of public and private law paralegals the question arises of how paralegals should be trained. There is a total lack of empirical knowledge on the best kind of training paralegals should receive and indeed it is obvious that paralegals need different training for different functions. In private law offices, some attorneys prefer to employ competent people who have not received any special paralegal training, since they choose to teach the particular work to be assigned in their own way. Other law firms have looked to the Institute for Paralegal Training in Philadelphia which trains paralegals in a single specialty over three months of intensive classroom work. Many experiments in paralegal training are underway, ranging from community college-based short term training for legal secretaries, to one and two year college-based programs giving general law background.

In the public law sector, training is usually provided for a specific function. Thus, legal services paralegals may be trained in welfare, consumer, divorce and domestic relations or landlord-tenant law, or in the skills needed for administrative hearing work. Other areas in which public law paralegals are trained include National Labor Relations Board work, Equal Employment Opportunity Commission investigations, and criminal procedures.

It is obvious to me that a wide variety of training is needed for paralegals, and at this point in history experimentation should be encouraged.

Against this background, the subject of accreditation of paralegal training becomes vitally important. In the United States, accreditation is considered voluntary—that is, educational institutions join together to recognize one accrediting agency to establish rules about related educational programs. Despite this voluntariness, the consequences of accreditation are far ranging and potent. Because students, employers, and educational institutions all pay attention to whether a training program is accredited, the promulgation of rules for accreditation may have a stifling effect on experimentation, and a strong tendency to lead towards only one way of training.

There are two things to fear from accreditation. The first is that it will be done prematurely before real knowledge and understanding is obtained about the connection between education and the job to be done. The second, is that the group to establish and promulgate accreditaton rules will not be representative of those who by experience and knowledge, can promulgate balanced, rational and appropriate rules.

As to the first point, that accreditation should not be established prematurely, it seems clear that we have not yet reached the state of knowledge and understanding of the paralegal movement for rigid rules to be set. It should be noted that paralegals present no new threat either to society, or the legal profession. I do not know of a single case in which an OEO Legal Services paralegal has been found to have violated any ethical or unauthorized practice rules. There is no real threat that society or clients will be in any way damaged by the utilization of paralegals. Except for those non-lawyers working in administrative representation cases for the poor, paralegals are entirely under supervision of attorneys.

In those job slots where there may not be an attorney present, such as in tenant organizations, or senior citizens programs, the paralegals are giving a service which would not otherwise be given. Limited experience in these areas shows that trained paralegals can do work of the same quality as an attorney might do.

These is an extraordinary amount of healthy experimentation underway in paralegal training. Some believe that the best training for paralegals is to show them systematically how to handle every step of a particular kind of case, such as an uncontested divorce, or a consumer problem. This is the "system" approach. Others believe that short-term intensive training is the most suitable, and have designed courses which last anywhere from a week to three months, producing a paralegal knowledgeable and skilled in one substantive law area. Yet another approach is commonly found in the colleges which prepare generalists, offering what appears to be a diluted version of a law school curriculum. Finally, there are those who believe that on-the-job training for paralegals is most suitable, since each law office handles cases in its own way.

There is no evidence that any of these approaches is superior to any other. Moreover, the variety of people doing paralegal work makes it plain that no single approach will be suitable for all. As I have mentioned, large private law firms favor women college graduates with good academic records, many of whom are qualified for law school. Government agencies often employ those who could not reasonably hope to attend law school, and need not even have a college degree. In OEO Legal Services, a number of paralegals are drawn from the community, and are members of minority groups with little or no college experience. (Contrary to popular belief, however, more than half of those paralegals working in OEO Legal Services have completed some college and many are college graduates.)

Still other paralegals are elderly people serving fellow senior citizens; reservation Indians appearing in tribal court; middle-aged people seeking new careers; or ex-convicts who have learned about the criminal process the hard way.

The content and duration of training for a paralegal on an Indian reservation, a real estate paralegal, or a senior citizen handling disability hearings under Social Security are obviously going to be different. No person or group can claim to be in a position now to issue rational omnibus rules for all training.

When the time comes for accreditation standards to be set, the question of who is to set them will be of vital importance.

The only movement towards accreditation of paralegal training has emanated from bar associations. In August 1973 the American Bar Association promulgated standards for college-based training programs, and its special committee dealing with paralegals is currently working on standards for all other paralegal training. Recently the California Bar Association promoted legislation in Sacramento which would lead to the accreditation of paralegals. The legislation is still pending.

It is my view that a committee of lawyers, of the American Bar Association or of any other bar association, is a wholly inappropriate group to establish accreditation for paralegal training. As the National Commission on Accrediting recently stated in a report dealing with accreditation in the health professions:

> One important factor that is forcing a re-evaluation of the health professionals position in relation to society is the tendency—the necessity—for professional organizations to give increased emphasis to the economic and social welfare of their members. This development serves to accentuate the conflict of interest inherent in the professional associations bifurcated responsibility to its members on the one hand and to society at large on the other. Concurrent with this development is the altered status and reputation of the professional. No longer is it uniformly believed that the acts of professionals are totally beyond the comprehension of laymen . . . Further-

> more, accreditation that is controlled by health professional bodies has come to be heavily relied upon by many different segments of society, including government agencies that utilize accreditation as an initial criterion both for the disbursement of public funds and for individual licensure . . . These factors, among others, argue that the accrediting process must be held accountable not merely to the health professions, but to a much broader constituency. This broader constituency includes in varying ways the educational institutions that offer programs of study of health professional fields, the potential employers . . ., the Federal and state governments, students, and ultimately the public at large.

I think this statement applies directly to the issue of whether bar associations ought to be the accrediting agencies for paralegal training.

The issuance by the American Bar Association of rules purporting to fix guidelines for paralegal training is, in my view, a disservice to the paralegal movement. The guidelines suggest standards which have no relevance to the needs of paralegals, and suggest that a single monolithic approach to paralegal training will fit the needs of all.

The tendency of bar associations to establish rules governing new forms of legal practice which coincidently serve to protect the interest of lawyers is well recognized and not surprising. Indeed, every occupation should organize to promote its own best interests, and I hope that paralegals will do the same. A problem arises, however, when one professional organization undertakes to establish rules for a sub-professional organization. As the National Commission on Accreditation rightly suggests, there is a conflict of interest in this. Moreover, private atorneys are not experts in the area of training, nor are they knowledgeable about the far-ranging needs of the public law sector where paralegals have their greatest role to play. I believe all these defects are revealed in the ABA Guidelines.

The paralegal movement has extroardinary potential for extending legal rights to citizens, and its growth and development is of great public interest. Because the accreditation of paralegal training is bound to have a significant impact on the direction of the movement, a large scale study of paralegal accreditation is necessary. This is all the more true because bar associations and others are inclined to prematurely preempt the field.

I would urge that this Committee recommend legislation to establish in an appropriate government agency or as part of a broadly representative non-governmental entity, a study group with a mandate to analyze the paralegal field and produce both empirical data and recommendations for paralegal accreditation. I suggest that this group might well study the following:

1. The varieties of work which paralegals now do, and may appropriately undertake, and the forms of suitable training for such work.
2. The extent to which training requirements may, if improperly designed, limit access to the occupation.
3. The extent of the public interest in having adequately trained paralegals and in insuring open access to the occupation.
4. An evaluation of the variety of presently existing training methods, and the degree to which employers, paralegals and recipients of legal services find such training to be appropriate to paralegal functions.
5. The constituency which has sufficient interest and knowledge of paralegal training and utilization to enjoy participation in establishing accreditation rules.
6. A recommendation for the creation of a permanent accrediting entity.

There are now millions of citizens in this country who cannot afford legal counsel, and who suffer the loss of rights and remedies which in many cases might be simply obtained. Paralegals have already shown that they can provide valid and useful services to such people. It is within the power of Congress to promote a more rational and promising utilization of paralegals, by mandating a study which can lead to a sound accrediting policy, in contracts to the premature and stifling approach suggested by some members of the organized bar.

Mr. FRY. Senator, if I may, unless there are questions, I would like to introduce Jim Miller.

Jim is a paralegal from the Philadelphia OEO legal services program. We have worked with him for a number of months and have discussed training and other matters with him. He is quite experienced.

Senator TUNNEY. Fine.

Mr. **Fry**. I asked him if he would join me here because I think he has interesting thoughts on the subject.

Senator **Tunney**. Would you like to make a few comments, Mr. Miller, as to what your thoughts are on paralegals and the use of paralegals in the community that you serve and what your feeling is about the capacity or ability of paralegals to identify with the clients that they serve.

Are they able to communicate more freely and easily than lawyers, to your knowledge?

Are they able to assist lawyers in an effective way?

Whatever you feel is important to bring to the attention of the committee. We would be happy to hear you speak. We are working under constraints of time so if you could just summarize your remarks in 3 or 4 minutes.

Mr. **Miller**. Thank you, Senator.

For the past 8 months I have specialized in divorce hearings. In other words just handling divorces. Recently I became a participant in a specialized training program. I'm under their training now as an advocate general advocate and it's been my experience in working with attorneys in the program that we learn from each other. I believe in legal services to the poor. The attorneys have learned as much from me as I have learned about the law from them.

My statement is rather short.

I don't have too much to say after Mr. Fry. I would feel more comfortable if I read this thing.

Senator **Tunney**. All right, fine, proceed.

Mr. **Miller**. My formal education was curtailed many years ago by the consequences of having been born black and poor. By the time economic opportunity became available to black people, I had insured that my formal education would not be resumed due to a further consequence of having wasted my young years in a rather antisocial lifestyle.

Senator **Tunney**. Could you speak a little louder, sir, I can't hear you.

Mr. **Miller**. Today, thanks to the concern of many truly committed people in legal services, I am able to come before this important body and speak for thousands, who like me, feel they may be legislated out of the emerging paralegal profession. I speak also for the vast number of persons who may still find their way to the paralegal profession as a result of community involvement; those working in and for tenant organizations; consumer protection and education; mental health programs; those who dedicate so much time and effort toward improving the lot of our senior citizens.

I can realize the tremendous contributions such people make to the community because I had at one time or another, through one way or another received the beneficial blessings of their contributions. My wish now is that with the proper training, I too can render valuable and constructive contributions.

I would be bordering on the threshhold of impertinence were I to presume to instruct this committee as to what national body should be delegated to oversee or conduct the accreditation of paralegals. Likewise, I do not believe you would appreciate my advising you as to what paralegals should or should not be licensed. However, as one of the best paralegals in one of the best legal services programs, staffed by some of the best attorneys in the East, I can say to you, the time has not arrived where it is necessary to accredit paralegals.

Any attempt to test and license paralegals at this point would require as many types of licenses and tests as there are types of paralegals. In addition, it would be almost impossible, on this date, to obtain two descriptions of what a paralegal is or what he does, which will appear even remotely the same. I find it strange to consider accrediting a "thing" which lacks definition.

The fact that this emerging occupation is not acceditable at the present does not mean it will remain so. When lawyers learn to not feel threatened by paralegals; when the Nation's law schools become supportive of paralegal training; when law officers learn to fully utilize paralegals; when a composite body of lawyers, businessmen, paralegals, and educators can be found to administer accreditations, then, I hope to be among the first to seek congressional involvement.

In the event you are otherwise persuaded and you feel there is a compelling need for immediate accreditation of paralegals, I would urge that the accrediting agency be comprised of institutions, individuals, and agencies experienced in the delivery of legal services to needy people. An agency thus composed, is more likely to assure the legal profession will be enhanced by the continued activities of paralegals in that it will be relying on experience in poverty law, whereas one of the bar associations could only proceed on the narrow margin of opinion. Enactment of any legislation designed to control or further constrain paralegals must be considered with the view that paralegalism is not aimed at destruction of the legal profession. rather, it is aimed at fulfillment of the traditional promise of the legal profession, which is justice and equality under the law.

[Witness requested this supplement be added to his testimony.]

ADDITIONAL STATEMENT OF JIM MILLER, PARALEGAL ASSISTANTS

In my examination of the transcript of testimony rendered by me before the Senate Subcommittee on Representation of Citizen Interests, I am forced to conclude that my response to some of the Chairman's questions were inadequate. Consequently, I respectfully request that this statement be included as a part of my testimony and be entered in the official records of the hearing.

At Line 9, Page 41, Senator Tunney posed a series of questions. The following represents my response to those questions:

The use of paralegals in the community where I am employed is crucial in the effective delivery of legal services to needy persons. Being a product of that community, I feel I can more readily relate to the needs of the client. Quite often, the client is unable to identify or articulate his true needs in terms by which the highly trained attorney can comprehend. The application of certain techniques developed by Legal Services training programs, coupled with my knowledge of certain peculiarities of the community, enable me to translate the legal aspects or consequences of a clients situation into terms which he or she is able to understand. I see a definite need to have the client truly understand his or her situation in relation to application of law.

Another advantage in the use of paralegals is that clients are more willing to respond to questions during an interview when the interview is conducted by a paralegal. The client, after he is made aware that I am not an attorney, somehow feels more confident, trusting, and willing to accept my appraisal. Where the lawyer conducts the interview, the client is defensive and cautious to the extent that he hinders the entire process. All too often, the client identifies a lawyer with the law; and "law" to most ghetto inhabitants mean deprivation, imprisonment, or suppression.

Technique or the degree of skill used by the lawyer has nothing to do with this phenomena. It is part of the conditioning reflexes and defenses which are used for ghetto survival. I might add too, that paralegals are less troubled with interpreting slang expressions, codes, standards, and attitudes common to survival in the slums. I have found it quite significant that I am not tempted to make value judgments of a client, using standards unrecognized by the client. The client is therefore free to relate the facts without fear of being criticized or judged. He or she is led to a point where they honestly feel that justice will not be measured according to the amount of money they are able to pay.

Generally I have found it more preferable that the client identify with me; rather than I with the client. The affect of his wish to identify with me speeds up the interview, allows me the opportunity to listen and be alert for pertinent facts, and often acts to shorten the time required for investigation and fact gathering. Where the problem indicates the attention of an attorney I am then better able to present him with a brief set of facts upon which he can determine the legal course of action.

The paralegal, adequately trained and properly motivated, provides a real and valuable assistance to the attorney. Not just in the conventional notion that use of a paralegal permits the attorney to devote his time to more intricate matters, but in the real sense that more people are actually served. The process of eligibility screening and problem identification is a tremendous consumer of time in any neighborhood law office. In the course of a single day, one paralegal may receive as many as thirty complaints. By telephone alone, perhaps a dozen complaints may be settled; ten may be determined ineligible; four may be referred as potential fee generating situations; and the remaining four may be retained by the agency for further action.

Naturally I am required to consult with and inform my supervising attorney on a continuing basis, and at some point each day, he sits with me to review and update any caseload I am maintaining at the time. The process, thus far, has proved extremely fruitful. The attorney is assured that clients are receiving full and competent legal services; he is assured that the Code of Professional Responsibility and Canons of Judicial Ethics are being observed; and we are both better able to judge my progress in the development of skills necessary as a lay advocate.

Certainly, the paralegal employed in the public sector of legal services does not normally possess the academic credentials of the paralegal usually found in private practice of law. And this is so simply because sophisticated credentials are not needed. The degreed paralegal seeks a sophisticated and financially rewarding area in which to apply his skills. Such are not to be found in working to ensure that poor people are provided the legal services they need and to which they are entitled.

Indeed, the presence of sophistication in a program designed to benefit slum inhabitants, is more likely to prove disadvantageous. Poor people, living in the ghetto have been disappointed and disillusioned so often by the promise of help, that they have arrived at a point where any sign of government involvement, any indication of white middle-class management, is viewed with suspicion. The paralegal whose own previous life-style parallels that of those whom he seeks to serve, does much towards diminishing that suspicion and mistrust.

The foregoing view represents what I hope is an accurate response to the question directed by the Honorable Senator Tunney. In examining my response, I trust that this entire subcommittee will consider my views are not derived from social studies in the local universities; my statements are not herewith supported by impressive statistics; nor do I appear before you clutching an array of diplomas and degrees. I do however, speak to you with a conviction born out of difficult personal experiences. I relate to you the poignant observations of a person who has known poverty, frustration, and some bitterness, who now seeks to ease some of the deprivation suffered by those who still inhabit the poorer communities of our nation. If what this subcommittee seeks is in accord with that which I seek. I am confident our common goals can be achieved by continuation of programs such as the Community Legal Services where the utilization of paralegals is recognized as a vital necessity for the program's success.

Senator TUNNEY. Thank you, Mr. Miller.

Mr. MILLER. Thank you.

Senator TUNNEY. Mr. Fry, I am interested in the present state of the training programs that you are designing for OEO.

I have thought about the possibility of introducing an amendment to the community action program bill, which is now going through the Congress. This amendment to the funding of development for paralegals to help the elderly with their legal fees—I understand the Labor Committee is favorably disposed to the amendment if I should offer it.

Do you feel that this is a good idea?

Mr. FRY. Yes, I do, Senator. I must say I had a short discussion with your staff on this bill and I am very much in favor of that sort of provision. We've been involved somewhat in training paralegals for senior citizens. Our approach has been to train paralegals already employed in agencies serving senior citizens to identify the common areas of legal problems that senior citizens have and to design intensive training programs for paralegals. There have been a few experiments around the country using senior citizens trying to give legal services to other elders. And I think the results are totally encouraging. The paralegals are able to provide services that the profession has not been able to provide in anyway and that includes OEO legal services, which doesn't have the funds or the attorneys to do it.

I would urge that the training format under such legislation be left flexible so that the training can be designed to be appropriate to the needs of those paralegals.

It may very well be that short and intensive training programs combined with on-the-job training produce the best paralegals. We're moving in that direction ourselves and we think that that works best.

Senator TUNNEY. In your statement you indicated that the ABA's single monolithic approach to a paralegals training program was a disservice to the paralegal movement. Yet in your statement concerning the California bill, which you submitted to us in advance—the testimony—you state that ABA guidelines are purely advisory and are meant only to apply to college based programs that have no effect on other programs. And I wonder how you can explain the inconsistency between those two approaches as I understood them.

Mr. FRY. I think there are two points to be made. One is that any statement from the ABA, even though it's labeled advisory has an enormous impact as a practical matter. Community colleges around the country are terribly interested in paralegal training and about 60 of them have undertaken one form or another of paralegal training courses.

When the ABA guidelines appeared, even though they were deemed advisory by the ABA, they immediately were taken by colleges and many others as a signal from the organized bar about how paralegal training should be conducted so that because of its stature in the field anything from the ABA has a strong impact.

The problems that I have with those guidelines is that they suggest that the appropriate form of training for a college-based paralegal training program in a 2-year format. It's our feeling that that is only one of many appropriate formats and that colleges ought to seriously consider short-term training programs running anywhere from 1 month to 3 months or 6 months; that they ought to be encouraged to experiment and that they ought to be told that 2-year format has no empirical superiority over other approaches. I'm afraid that the effect of the guidelines will be that colleges will, by and large, adopt a 2-year format.

And I must say that, from the legal services point of view, a 2-year training program is almost no utility. The legal services paralegals are not interested. Many of them have college degrees. Some of them are Indians for whom a special training program has to be designed. Others are too old for college—senior citizens are not interested in a 2-year college commitment. I would say that only a small percentage of paralegals in legal services would find a 2-year training program appropriate. And yet I find that nowhere expressed in the guidelines.

Senator TUNNEY. Thank you very much Mr. Fry. I appreciate your testimony. Many are the questions I could ask you if we had the time.

And thank you, Mr. Miller, for your statement.

[The complete statements of William Fry, director, National Paralegal Institute, Washington, D.C. and James Miller, Legal Services, Philadelphia, Pa., follow:]

COMMENTS ON ACCREDITATION OF PARALEGAL TRAINING AND CERTIFICATION OF PARALEGALS

INFORMATIONAL AND INTERPRETATIONAL OF CALIFORNIA LEGISLATURE ASSEMBLY BILL NO. 184 (AN ACT RELATING TO "CERTIFIED ATTORNEY ASSISTANTS")

(Submitted by: William R. Fry)

I. Introduction

The National Paralegal Institute is a Washington, D.C. non-profit corporation with grants from OEO and HEW to promote the training and utilization of paralegals in the public sector of the law, particularly legal services for the poor. The Institute maintains a clearinghouse for information and a library on paralegal materials; prepares training materials; studies and paralegal movement and the utilization of paralegals; conducts training; gives technical assistance to legal services programs; and stimulates and coordinates the work of colleges, law schools, and other involved in paralegal use in the public law sector.

California Assembly Bill 1814 has been recommended by the California State Bar Association. It would designate the Bar Association as the agency within California to regulate and accredit training programs for paralegals, and to establish and enforce certification procedures for "certified attorney assistants" (or paralegals as they will be called herein). As originally introduced, the bill gives entire authority to the Bar to set all standards; and establishes criminal penalties for those who fail to comply with the certification requirements by improperly using the title "certified attorney assistant".

This proposed legislation raises a number of questions which bear on matters of great importance to California and the nation—the availability of legal rights and remedies to citizens on an equal basis, and at a cost they can afford. It is the purpose of this commentary to provide facts and observations on the proposed legislation.

II. Before acting on this bill, the legislator should consider four questions basic to it

A. Should there be a special accreditation process for paralegal training?

B. Should laymen employed by attorneys in other than a clerical or secretarial capacity be subject to credentialling standards and requirements?

C. Does the legislature now have sufficient information and data to make a decisive determination on paralegal accrediting and licensing?

D. If yes to the foregoing, what agency or mechanism should be used to establish and control standards for accrediting and licensing?

III. Background discussion

In California, as throughout the country, attorneys have used paralegals for years. Estimating from the numbers of paralegals in three known paralegal associations in major California cities, and those in Legal Services for the poor, there are undoubtedly many hundreds of paralegals now employed.

The private bar uses paralegals behind the scenes, to do technical work in specialty areas such as real estate, litigation, corporations, and trust and estates. Most paralegals employed by private law firms are young, college-trained women who have not received any formal paralegal education and have been trained on the job.

Colleges and universities in California have recently awakened to the potential for training paralegals and at least eight training programs have been opened in law schools, universities, colleges and junior colleges. These programs are so recent that their graduates have not established an employment record, and it remains true that the principal private law paralegal employment is still among those trained on the job.

The public law sector includes legal services to the poor and government agencies. There are approximately thirty Legal Services offices funded by OEO in California, and about two-thirds of these employ from one to ten paralegals. The attorneys in these programs are generally very favorable toward the use of paralegals and would employ more if they had the funds. As one California Legal Services project director said in a survey conducted by the National Paralegal Institute "we cannot do without them!"

Paralegals to be employed in Legal Services are carefully selected by the attorneys. They are often community residents, racial minorities, without college training, often having been poor themselves and with little interest in or financial ability for formal education. They are trained on the job, either by Legal Services attorneys or in short training programs established by consortiums of Legal Services projects. Because of a shortage of funds, Legal Services programs also take paralegals from a variety of free sources: VISTA, Community Action Programs, college and law students.

Legal Services paralegals have, in some projects, had an important impact. For example, in Santa Cruz where approximately twenty percent of the poor population are senior citizens, only six percent of that population sought legal services until the project established a special senior citizens unit. This unit is staffed by three carefully trained elderly paralegals supervised by an attorney. In the period of a year, this project has tripled its capacity to deal with senior citizen legal problems.

Overall, paralegals are now a basic resource in legal services to the poor and anything which diminishes this resource will be seen as hostile to the needs of the poor. In Santa Cruz, for example, the imposition of schooling, written examinations or other tests on the three excellent paralegals there may be an unmanageable burden. As a result they may be excluded from the occupation they helped pioneer.

Government agencies in California are increasingly recognizing the value of paralegals, and specifically training and employing them. For example, the Federal Trade Commission employs twelve consumer protection specialists. The Equal Employment Opportunity Commission is starting a program in which they will employ twelve paralegals to work in their five litigation centers. The Immigration and Naturalization Service is seeking approval to phase-out a number of attorney positions, to be replaced by paralegals and others who will be trained on the job. The State Department of Insurance reports that it has twenty-one people who would be classified as paralegals. The State Alcoholic Beverages Control Agency employs twenty investigators whose positions are considered paralegal and for which a person with paralegal training would have an advantage. No formal training exists for these paralegals. It is hard to conceive of tests which would measure their special competence.

So far as we are aware, none of the paralegals in private law firm employment, legal services, government agencies or any other areas have created the slightest problem of violation of ethics, unauthorized practice, or violation of the law. They work for and with attorneys, are under attorneys' supervision, and pose no threat to the public interest.

IV. Discussion of questions raised

A. Should there be accreditation of training programs?

As a general rule in the United States, the teaching of particular subjects such as chemistry, journalism, mathematics, or forestry is not accredited; only the schools offering such training are accredited, and the overall reliability and stability of the school passed upon by an existing accreditation agency.

Accreditation of a specific course of education implies that this course is a prerequisite to entry into an occupation which is itself licensed and controlled in the public interest. Thus accreditation of training, and licensing of an occupation are reverse sides of a coin. As stated by the National Commission on Accrediting: "The establishment of educational criteria for state licensure is widely regarded as one of the prime functions of specialized accreditation."

Among colleges and universities, proliferation of accrediting has traditionally been resisted. The creation many years ago of the National Commission on

Accrediting was an effort to stop the proliferation of accrediting agencies by establishing one national authority to certify only those accrediting agencies necessary.

Thus the accrediting of educational programs ought to be done only when necessary, and when the colleges and universities have requested it. In other cases, public protection comes from the general accreditation of education facilities.

Moreover, where accrediting is justified it ought to be done on a national basis. In a statement of policies on accrediting the National Commission on Accrediting says:

> Policies, procedures, and standards of accreditation should be established and applied on a national and uniform basis.
>
> Appropriate differences in the administration of accreditation may be necessary and desirable because the United States is a large nation in which variations in culture and social patterns do exist. However, in view of the fact that accreditation of institutions and of their programs of study is equally important throughout the country, these proper differences in the administration of accreditation should not be permitted to encourage discriminatory or unfair treatment. To guard against the intrusion of inequality or unfairness to the accrediting process, its policies, procedures, and standards should be adopted and applied on a uniform basis.

In the paralegal field, formal accrediting poses a special problem. Many attorneys prefer to train paralegals on the job, except for certain basic training such as legal research and writing, and basic analysis of specialty areas such as corporations or real estate. Many attorneys wish to have their paralegals attend only short intensive training programs of the kind offered by special training institutions, or by the attorneys themselves. The creation of a formal accrediting process of training programs will undoubtedly lead to approval of college based programs, but it will be almost impossible to establish accrediting standards for those special training programs which serve the needs of attorneys (and the needs of the public for paralegals). Thus the creation of formal accrediting will lead to a distinction in paralegal training which does not serve the interest of the public, paralegals, or attorneys.

It requires considerable study, and normally a number of years, to decide what training programs and methods of teaching are *legally acceptable* (rather than just preferred). There is insufficient experience across the country to make such decisions at this time. The variety of paralegal training programs in the United States is endless. One of the most successful paralegal training programs, which has placed many hundreds of highly regarded paralegals in major law firms around the country is the Institute for Paralegal Training, in Philadelphia. It gives three months of intensive training in a specialty. It is not affiliated with any college or university and its training does not award academic credit. One year training programs are given on the graduate level at George Washington University in Washington, D.C. The Law School of West Los Angeles offers a one year training program. Upwards of twenty community colleges in the country offer two year training programs, while at the University of Minnesota a three year program is available. Community colleges are contemplating short specialty courses at night or during summer months.

A number of legal services programs have inaugurated training consisting of one day a month for a year for on-the-job paralegals, combined with individual supervision and training from attorneys. Thus, experimentation flourishes, with the diverse needs of many groups being met by various training formats. None has been proved superior and each serves a legitimate need.

The only case for moving forward with accrediting in the face of these difficulties and absence of compelling need is the possibility that some entrepreneurs will take advantage of the paralegal training market by establishing inferior and misguided training programs and extracting tuition from eager students. For the rare occasions when this may happen, there are already adequate remedies, primarily through the Attorney General's office which can prosecute and enjoin misrepresentation. Aside from this, the pressing need for an accreditation program has not been established.

Should the California Bar nonetheless wish to promulgate advice to colleges and to the public on the recommended criteria for establishing training programs, they could easily follow the example of the American Bar Association. At its August, 1973 meeting the ABA passed a set of guidelines for college-based two-year paralegal training program. These are purely advisory, and are meant only to apply to college based programs, and have no effect on other programs.

They serve the purpose of assisting those colleges which seek professional advice and counsel, while not imposing fixed rules or excluding other forms of training.

B. Should paralegals be credentialled?

Under the laws of Unauthorized Practice and Canons of Ethics paralegals now are not practicing law and are doing only what any laymen can do. They work under the supervision of attorneys who are their employers, and are in that respect little different from legal secretaries, investigators, accountants, and other specialists. We are not aware of a single successful challenge to an OEO Legal Services paralegal for unauthorized practice.

Paralegals pose no threat to the public interest so long as they continue, as they have for years, to work for and under attorneys. The only possible threat to the public is a layman who practices law. This is not a threat created by the paralegal occupation, and is nothing new. The remedies for it are as before.

The paralegal occupation is broad and serves a variety of needs. For the private attorney, it relieves him from onerous detail, and provides an expert in the processing and handling of routine technical matters. Private paralegals almost never meet clients, seldom have contact with attorneys or officials outside the law firm, and do not as a rule negotiate cases or appear in administrative hearings.

The public law paralegal has a wider range of activity. It may include fact gathering from clients, discussing a client's problem with an administrative agency and doing representation at a fair hearing. Indeed, many Legal Services paralegals devote a majority of their time to fair hearing representation, which is permitted by law.

As mentioned earlier, Legal Services paralegals are often drawn from the community. In extending legal services to the poor, paralegals represent an enormous asset. There are in poor communities many whose educational attainments, job experience, capacity to pass tests or examinations, and other characteristics are substantially different from the middle class which provides paralegals to the private bar. There is a real risk that licensing requirements will discriminate against these paralegals. Standards based on level of previous education may be difficult to meet. Standards requiring certain forms of paralegal education may be unattainable (there is currently no appropriate training available for public law paralegals in California, and economically deprived paralegals cannot purchase their own training); it is well known that written testing tends to be discriminatory against minority groups. There are no appropriate tests for paralegals, and the staggering variety of work they do suggests that such a test will be difficult to devise.

Moreover, the proposed legislation establishes a requirement of good moral character. This qualification, while common in the design of licensing statutes in the past, has been severely criticized in recent years. It falls particularly upon those members of impoverished groups where the incidence of involvement with the law is high.

The California Bar Reports suggest that in some very limited respects, credentialled paralegals may be permitted to do what is now the practice of law. If this is to be the case (and no extension of the practice of law has been granted to paralegals as yet) then it is clear that limited licensing for the few paralegals who perform the newly authorized practice would be entirely adequate to protect the public. The Bar committee suggests that certified attorney assistants may be permitted to do such non-discretionary acts as appearing in an uncontested ex parte hearing for: guardianship petitions, change of names, petitions for family allowance, returns of sale not subject to overbid, sale of securities, and step-child adoptions, as well as setting trial dates and stipulations for continuance. A vast majority of paralegals do not engage and will not be engaged in these kinds of activities. Accordingly, if the rationale for certification is to regulate laymen practicing law in these limited areas, the regulation should apply only for those who do these activities.

It should be noted that the sanctions under the proposed statutes are not gentle. A misdemeanor prosecution may follow if an uncertified paralegal does any of the things which hundreds of paralegals now do. If the legislation is enacted, hundreds of working paralegals face either criminal charges or loss of occupation if they fail to meet standards which the Bar has total discretion to set. Should the interests of paralegals in this regard be different from attorneys' personal interests, the legislature will have declared the winner beforehand.

C. Is accrediting and certification now ready for decisive legislative determination?

The legislature is being asked to make a final and conclusive determination on the regulation of this new occupation. Before doing so, it should have the benefit or recommendations from the paralegals themselves, in both the public and the private law sectors; from government agencies; from public interest attorneys; and from the potential recipients of paralegal services—the million of citizens who cannot now afford an attorney.

In addition, educators of paralegals and law school teachers ought to be fully involved in the accrediting process, which will involve educational judgments which lawyers are ill-equipped to make.

Thus far, input on the legislation has been limited almost exclusively to members of the organized bar, and while their views are of importance, they should not override or displace the views of others.

It goes without saying that attorneys have a considerable interest in controlling the paralegal occupation. Paralegals are a potential resource to attorneys for increasing business and economic rewards. On the other hand, they pose a potential threat to the traditional practice of law, since several attorneys may mobilize a substantial number of paralegals and seriously compete with other members of the bar. However, this potential threat to individual attorneys is a potential boon to the consumer of legal services. It is inappropriate for the legislature to act solely on the motion of the Bar Association without hearing from the consumer.

As the National Commision on Accrediting has said in regard to health professions (equally applicable to paralegals):

> Until recently such accreditation has generally been considered to be the unique responsibility and province of the various health professions themselves. But no longer do such assumptions prevail. Current forces are prompting intensive reexamination of the health professions' authority to serve as the sole arbiters of educational standards, as well as the only participant in the other mechanisms by which health professionals have traditionally been screened and policed.
>
> One important factor that is forcing a reevaluation of the health professional's position in relation to society is the tendency—and necessity—for professional organizations to give increased emphasis to the economic and social welfare of their members. This development serves to accentuate the conflict of interest inherent in the professional association's bifurcated responsibility to its members on the one hand and to society-at-large on the other.
>
> Concurrent with this development is the altered status and reputation of the professional. No longer is it uniformly believed that the acts of professionals are totally beyond the comprehension of laymen. Just as it is now realized that accreditation depends not only on technical expertise but also involves issues of broad social import, so also is it widely acknowledged that understanding of the accrediting process and its implications is not limited to the health professions directly involved.

Accreditation and certification are serious steps, and normally follow years of study, analysis and consultation. There is no reason for undue haste to control paralegals, and time needs to be taken for consideration of the many diverse interests in the area.

Before passing this legislation, which falls with the weight of criminal sanction on potentially thousands of paralegals, the legislature should consider and define the "practice of law." Why is it, for example, that insurance adjusters, tax counsellors, and many government agency hearing officers are permitted to function without criminal sanction, while paralegals are to be subjected to harsh, exclusory measures? Without such definition of "practice of law," the statute may be unconstitutionally vague.

D. Should the Bar Association have exclusive control over accrediting and certification of paralegals?

The leading organization in the field of accrediting, the National Commission on Accrediting, has carefully studied the entire accrediting process. Their analysis is entirely pertinent and deserves quotation. Speaking of the accrediting and licensing process in the health field, they said as follows:

> The policies that apply to the conduct and operation of accreditation should be determined by national bodies which are responsive to the needs of the public and to the legitimate needs of all parties with special interest and responsibilities, and which are governed by boards of control that
>
> 1. include individuals who represent the interests of the public, and educators and practitioners who represent the institutions and the fields and

levels of study subjected to accreditation by the respective bodies, as well as others who represent the interests of the complementary professions and/or occupations; and

2. provide for rotation and limitation of terms of office of its members.

There is a vivid conflict of interest between attorneys and paralegals. Access to jobs, job qualifications, pay and status, roles and functions are all matter of essential importance to the paralegals themselves, and are subjects which may put them in direct conflict with the interest of attorneys. To place the Bar Associations in total control of the occupation means that the Bar will have a conflict between the even handed administration of accrediting and licensing as against the personal interest of attorneys on such matters as jobs, qualifications and pay.

In the area of education, the Bar Association has no special knowledge. This is also true on the question of the need for paralegals in new areas of the law such as prepaid group legal insurance—a matter upon which the consumers of legal services have strong opinions. Moreover, paralegals themselves are the best source of information on the value of certain kinds of training, the appropriate qualifications for entry, and the role and the status which paralegals ought to have.

For these reasons, it seems inappropriate to place exclusively in the hands of the Bar Association the control of the entire paralegal occupation.

V. *Recommendations*

A. It is recommended that the legislature defer action on the proposed legislation until more knowledge and experience is available. To hasten this process, the legislature should appoint a study commission or conduct its own hearings and studies to analyze the need for accrediting and certification. A study commission might consist of approximately one-third attorneys, one-third paralegals, and one-third educators and members of the public concerned with the delivery of legal services.

B. In the alternative, the legislature should follow the rules established for law student practice, and consistent with this precedent, enact legislation to regulate only those paralegals who will do what is now the practice of law. For law students in California this is done by the State Bar Association under "Rule Governing the Practical Training of Law Students". Since the practice by law students and others normally involves appearance in court, many states delegate to the courts themselves the regulations of those non-attorneys who are permitted to practice before them. This is a viable alternative to regulation by the Bar Association.

C. In the alternative, should the legislature proceed now with accrediting and certification regulations, the authority to establish and enforce criteria should be placed in the hands of a representative body created by the legislation to consist of one-third attorneys, one-third paralegals and one-third educators and representatives of the public. This is consistent with the position of the National Commission on Accrediting, and serves the legitimate concerns of the many interests which are not represented in the Bar Association.

A SHORT REVIEW OF THE PARALEGAL MOVEMENT

(By William R. Fry)

INTRODUCTION

The National Paralegal Institute has received many requests for information about the nature of the paralegal movement, the forces at work in it, the job market for paralegals, and the future of the occupation. While the entire subject has been studied and reported in various quarters, we believe a short summary may be useful for general information. We use "short" loosely, since a survey of developments even in summary fashion must cover a lot of ground.

DEFINITION OF A PARALEGAL

There is no authoritative definition, but those in the field including paralegals themselves tend to use the term in a certain way. It is generally conceded that a paralegal must be specifically trained, whether on the job or in a formal training program. It is also conceded that paralegals work under the indirect or direct supervision of attorneys on the kinds of problems attorneys have traditionally handled. The concept excludes some fairly well defined supportive roles in the lawyering process: secretarial, clerical, librarian, social worker, community aid, and office administrator. The paralegal should be trained in basic legal concepts, skills appropriate for his work, and one or more specialties. What paralegals do with this training will vary, as the following picture of paralegal diversity reveals.

So far there are no credentialing or licensing rules which define a paralegal, but some state bar associations and paralegal groups are talking about the need for such rules.

WHO ARE PARALEGALS

Paralegals come in many forms, and can be classified by where they work, what they do, or where they trained. The following is an effort to provide a profile of paralegals by dividing them into such classification purely for convenience—the division have no formal significance.

1. OEO legal services

A recent survey by the National Paralegal Institute shows that 127 OEO funded legal services offices (out of 280) make use of paralegals. Some have as many as 20, although more often there are only one or two. More than 70% of the paralegals have had some college training, up to post-graduate schooling. Few received any formal training prior to entering the legal services program. Some legal services projects have inaugurated in-house training programs, and others use on-the-job training provided by individual lawyers. The in-house training varies considerably:

(a) In Maine, paralegals are trained one day every other week for a full year;

(b) In Georgia, paralegals were given a two week intensive training program with follow-up training once they began work; and

(c) In Long Beach, California, an attorney spends full time supervising and training paralegals. They receive formal class teaching, study materials specially prepared for them, and receive continuous supervision and guidance from the attorney, who handles no cases himself.

OEO paralegals perform a wide range of services. Virtually all interview clients and a vast majority negotiate with government agencies on behalf of the clients in public entitlement cases, represent clients at administrative hearings, and do investigative work. Many also do legal research and drafting.

OEO legal services directors report substantial gratification with the work of paralegals, and it is only lack of financing that prevents them from employing more.

2. Institute for paralegal training in Philadelphia

This profit-making school started several years ago by practicing attorneys who invested a good deal of money preparing elaborate specialty training materials. Its admission standards are high, and it seeks young women college graduates with good academic records. Tuition is $700, and a placement fee of $1,800 is required from law firms. The students are guaranteed placement in the city of their choice or tuition is refunded. Placement success is virtually total.

Most of the training consists of specialty study in one area of law. For three months students are trained in their choice of corporation, real estate, tax, litigation, or trusts and estates. There is in addition, a single general course geared for the paralegal who will work in a small office.

Most graduates are working in major law firms in urban areas. The law firms are generally very satisfied, although it is unclear whether it is the training or the screening process which is most valuable to them.

3. On-the-job trained paralegals

In addition to those OEO legal services projects, many large and smaller law firms also employ paralegals trained on the job. In both San Francisco and Los Angeles there are paralegal associations whose members work in large law firms and were hired with no previous training. San Francisco reports 125 such paralegals in the legal community, which suggests that nationally there may be many thousands, although no one knows for certain. Most are young women college graduates and some law firms express equal satisfaction with them as compared to Philadelphia Institute graduates. Many law firms hire both Philadelphia graduates and untrained paralegals, suggesting that it is personal characteristics rather than training which govern their selection. They use both kinds for technical, behind-the-scenes work.

4. Community college graduates

About 25 community colleges around the country offer paralegal training, and their enthusiasm is spreading to other colleges. The curricula are almost entirely limited to training for the private law, on the assumption that a solid job market exists there. The colleges generally take no responsibility for placement of students, and the programs are so new that employment success has not yet been measured.

The programs differ in quality and scope, but many imitate the general outlines of the American Bar Association suggested curriculum. There is usually one course on the structure of the legal system, legal terminology, and other basic information. Other common components are law office administration, legal writing and drafting, and research. Beyond that, most offer a potpourri of courses geared to produce a generalist: corporation, tax, real estate, family law. With one exception (Edmunds College in Seattle), the community colleges do not train for OEO legal services or other public sector employment.

Many of the community college students are former legal secretaries. The remainder are often young women for whom this training represents educational advancement as well as career training.

(Attached is a list of current paralegal training programs in the country, most of them at Junior and Community Colleges).

5. Colleges and law schools

A few colleges and law schools conduct paralegal training programs. Columbia Law School in the summer of 1969 presented a six-week pilot training program to 23 paralegals slated for OEO legal services. The program has not been repeated. The University of West Los Angeles Law School runs a two year paralegal training program. George Washington University in Washington, D.C. presents an adult education (non-credit) one year paralegal training program with substantial assistance from the Law School. The University of Southern California offers a brief, intensive, training program for legal secretaries in trust and estate work. No colleges are known to give in-depth paralegal training as part of a four year curriculum (although some offer business law, trusts and estates, or probate courses which they label "paralegal").

6. Government agencies

A few government agencies have specifically recognized the paralegal aspects of some employees' work. The FTC and EEOC use trained laymen for investigation, research, and preparation of cases, and have recently started limited forms of training for them. Other agencies have long used laymen in paralegal type work although they do not label them "paralegal." The NLRB has several hundred laymen who process complaints under the Act, investigate, gather facts, do legal research, conduct negotiations and arbitrations, and make findings and legal recommendations. The Bureau of Hearing and Appeals within HEW is responsible for hearings under the Social Security Act, and its employees prepare and present cases on such issues as disability.

Few government agencies have adopted paralegal terminology, or recognized the potential for extensive training of staff, but there are no indications that this will change.

7. Miscellaneous paralegals

Group and prepaid legal services plans promise to provide paralegal jobs as these notions gain popularity. The Berkeley Cooperative in California, for example, offers legal services to its members, and employs three trained paralegals to provide service, together with two lawyers. A national association of unions have begun to lobby for prepaid legal services, an item subject to compulsory bargaining. If this effort is successful, it would mean unions could require employers to pay for legal services as a fringe benefit—a development which could explosively increase the need for paralegals.

A number of law communes throughout the country also use paralegals, generally trained by the lawyers in the communes. It is a commune tenet that lawyers, paralegals and other staff are on parity in responsibility, salary and capacity.

The National Lawyer's Guild has developed a serious interest in paralegals and formed a network of paralegal coordinators. In some cities the Guild trains and uses paralegals in its law work.

Some criminal law agencies—public defenders, prosecutors, bail projects—have made use of trained laymen to assist lawyers, and there has been talk of greatly expanding the paralegal role in criminal law work.

THE ORGANIZATIONS ACTIVE IN THE PARALEGAL FIELD

In addition to the colleges, legal services projects, and law firms involved in the paralegal field, several national organizations have taken an interest. The degree and nature of their activities will be summarized here.

1. American Bar Association

In 1968 the ABA's Special Committee on the Availability of Legal Services reported to the House of Delegates that "Legal Services would be more fully available to the public" if the legal profession were to recognize that "freeing a lawyer from tedious and routine detail" would conserve the lawyer's time and energy for "truly legal problems." Accordingly, three recommendations were made:

(1) "The legal profession should recognize that there are many tasks in serving a client's needs which can be performed by a trained non-lawyer assistant working under the direction and supervision of a lawyer;

(2) "The legal profession should encourage the training and employment of such assistants; and

(3) "A special committee of the ABA should be created to consider the subject of lay assistants for lawyers."

These recommendations were adopted by the House of Delegates and the Special Committee on Lay Assistants was established. In 1969 the Committee sponsored surveys of law firms around the country, and found that there was "a significant" use of non-lawyers underway.

In 1971 the Committee published a set of recommendations for paralegal training. It suggested a one, two and four year college program to be available for legal secretaries, legal assistants and legal administrators, respectively. The legal secretary would be given limited training in the forms, documents and procedures of basic areas of the law. The legal assistant would be trained among other things in legal research, and to "analyze and follow procedural problems that involve independent decisions." The legal administrator would be distinguished by knowledge of complex office equipment, office procedures and personnel and financial matters.

The proposed curriculum is entirely slanted towards the private lawyer and does not concern itself with paralegals in the public law sector, although it does not clearly articulate this omission.

In June of 1971 the Committee co-sponsored a national conference in Denver with the Council on Law Related Studies, and the Association of American Law Schools Committee on Paraprofessional Legal Education. Conferees from many backgrounds throughout the country discussed paralegals in private and public law practice, problems of education, and the future of the occupation.

For 1972–73 the Committee focused on a survey of training in colleges. On May 19, 1973, a limited number of people gathered in Denver to discuss proposed standards for training in colleges which by making the ABA the accrediting agency for such training programs would give the ABA effective control over such training. The Committee expects to present its standards to the ABA House of Delegates in August of 1973.

One notable observation at the Denver Conference was provided by a representative of the National Commission of Accrediting. He suggested that the ABA should not be an accrediting or approving agency for training programs, and that it might be a conflict of interest for the ABA to do so since it would then be spokesmen for both the employer-attorneys and the employee-paralegals. It was recommended that accrediting of paralegal training be under the control of paralegals, lawyers and legal educators, and spokesmen for the public interest.

2. The National Paralegal Institute

The Institute was formed in June, 1972 under a grant from OEO to support and promote the use of paralegals in the public sector of the law, particularly legal services. Because the success of paralegals for serving the poor will depend substantially on the development of the entire occupation, the Institute's broad mandate included establishing liaison with colleges, law schools and bar associations, developing strategies for the promotion of paralegals, designing training materials, and doing research and study on training and utilization questions. In the Institute's view, the principle value of the paralegal is in extending legal services to those who need service, at a price they can afford. In particular, the Institute is concerned that credentialing and licensing standards should not needlessly cripple the development of the public paralegal role.

The Institute has emphasized the designing of training materials because training of public paralegals cannot be promoted unless reliable materials are made available. The Institute's approach differs from that recommended by the ABA because public paralegals engage in a wider range of activities than private attorneys now permit their paralegals. Within OEO legal services, paralegals interview clients, undertake fact investigations, negotiate cases and represent clients at administrative hearings. Thus the Institute's curriculum includes training in basic legal concepts (structure of the legal system, role of the paralegal, legal ethics, torts, contracts and due process), specific skills (interviewing, investigations, legal research negotiation and advocacy) and particular substantive specialties such as landlord-tenant, welfare and consumer law. Some of the concepts and skills materials are ready now; others are scheduled for completion soon.

As the only national organization concerned with the expansion of paralegals in the public sector, the Institute tries to insure that the potential of public paralegals is not limited by bar association rules which focus only on private law sector work.

3. Community colleges

The American Association of Community and Junior Colleges is alive to paralegal training possibilities, primarily through its member colleges who have undertaken two year training courses. AACJC is interested in the paralegal field not only as a source of new training programs, but as a means of increasing the community services.

Individual community colleges have been quick to see the promise of paralegal training. They need more help than is usually available, however, to design effective programs. Careful survey of the job market, selection of students, and design of curriculum with clinical work experience are all steps for which help from experienced lawyers is needed.

As Community Colleges move into this field, it is clear that the AACJC will have an increasingly important role in providing leadership and guidelines.

4. Paralegal organizations

Only a few paralegal organizations have been created, and they are still young and not fully organized. In January, 1973, OEO legal services paralegals at a conference held in Washington created the Organization of National Legal Advocacy Workers (ONLAW) as an association of individual legal services paralegals. Officers were elected, and membership activities have been pursued.

In California, where the paralegal movement is vigorous, three paralegal organizations exist. One in San Francisco and another in Los Angeles are composed mostly of young women who are paralegals for major law firms and were trained on the job. The third, also in Los Angeles, represents paralegals trained in community colleges. This last organization has recently converted to the American Paralegal Association and intends to become the national organizaion for paralegals.

Other paralegal associations of private law employees exist in Chicago, New York City, and Seattle. Local organizations of OEO paralegals have been formed in West Virginia, Maine and Seattle.

5. The American Association of Law Schools

In 1970 AALS created a Committee of Paraprofessional Legal Education. The Committee has recommended that AALS:

1. Commission two studies: A law review symposium on paralegals (one has since been done by Vanderbilt Law School), and a study and evaluation of present training programs.
2. Consider commissioning a paralegal curriculum development project;
3. Instruct the Committee on Pre-Legal Education and Admission to Law Schools to consider special admission standards for paralegals in law schools;
4. Instruct the Committee on Teaching Outside Law Schools to consider the emerging need for paralegal teachers; and
5. Offer to work with ABA, OEO and others on credentialing, supervision, and similar issues around the paralegal movement.

Having no staff or funds of its own, the committee was unable itself to move forward with any of the recommended studies or projects.

AALS has also expressed increasing interest in the implications of the paralegal movement for the way lawyers are trained.

6. *OEO and HEW*

These are the two federal agencies so far involved in funding paralegal activity. OEO after two years of study of the paralegal concept and sponsoring a national conference in 1970, decided to form the National Paralegal Institute to bring to legal services the values of paralegals.

The current OEO administration is not sympathetic to paralegals. They have given the Institute a terminal grant, have not encouraged the employment or use of paralegals, and elements of the proposed legal services corporation bill now pending in Congress may be read to diminish the role of paralegals.

HEW's Administration on Aging has funded the National Paralegal Institute to develop training materials for senior citizens paralegals. This indication of initial interest may lead HEW to further investment in the field since there are many ways that paralegals can serve the beneficiaries of HEW programs.

As mentioned earlier, other federal agencies such as FTC, EEOC and NLRB have an interest in using paralegals themselves.

7. *Consumer group legal services project*

Last year, major unions in the country held a conference on prepaid group legal services. The conference favor the creatioin of such programs and emphasize the use of "closed" panels of lawyers in which pre-selected groups of lawyers handle all legal problems generated by group members. This is in contrast to the "open" panel approach favored by most bar associations in which all lawyers in a community are eligible to give the service.

The conferees formed the National Consumer Center for Legal Services, which is interested in efficiency techniques to reduce the cost of legal services to its members, and will in all likelihood build a substantial paralegal component into its plan. The group is now seeking to establish a national technical assistance agency to assist unions in establishing prepaid legal programs. Amendments of the Taft-Hartley Act to make prepaid legal services an item of collective bargaining is hoped for soon and should propel this movement forward.

WHAT ARE THE CURRENT ISSUES

Below is a summary of some of the major issues now under discusison in the paralegal field. This summary is put forward as an effort to sort out some major problems which loom large. The list could be extended or subdivided in various ways.

1. *How to train paralegals*

There is no evidence and experience on the kind of training which produces the best paralegal. Choices range between on-the-job training by the employing lawyer, special intensive training programs, more traditional academic college based programs, or a combination of these.

As to the location of training (as opposed to its design), there is a feeling among among that community colleges provide a logical situs. They can provide academic credit to those who need it, offer a chance for educational upgrading, and are placed in the educational hierarchy at a convenient level. In addition, community colleges are increasingly flexible on the format of programs and are able to provide night classes, summer programs, intensive training, and clinical experience. Moreover, community colleges provide a potent educational resource, with solid funding frequently available from the state or local communities.

A separate training issue is the extent to which public law and private law paralegal training are or should be combined. At present private lawyers prefer specialists and private law paralegal training falls generally into two categories: intensive training in a single specialty (the Philadelphia Institute model) or general training in a whole series of private law specialties. Public law training places more emphasis on general legal background and development of skills, and the substantive areas taught are different. If private law paralegals gain more responsibility and scope of authority, their training will come to resemble the public side, with the only distinction then being substantive law specialties.

A third issue under this heading is the question of how to provide training programs designed to accommodate particular needs. For example, senior citizens are unlikely to be interested in college accreditation or in lengthy courses spread over one or two years. College graduates will also share these feelings. Programs designed primarily to train high school graduates as part of a liberal arts curriculum are thus not likely to suit elders, college graduates and others with special needs. Whether one training design can accommodate all these interest remains to be seen.

The pedagogical techniques to be used in training paralegals vary widely. Some community colleges follow the law school tradition of reading cases, with heavy emphasis on classroom lectures, discussions, and study of technical materials. Others impose less reading, and emphasize role playing, video tape, practical exercises, analysis of hypothetical situations, and study of mock cases. It is frequently said that paralegal training should not imitate traditional law school methods, but must experiment with new techniques. As a result, paralegal training materials tend to draw little from law school texts, and generally supply careful direction to the trainer on how to teach.

2. Admission into training

One approach to admission is represented by the Philadelphia Institute. It seeks college graduates with the highest academic credentials. Opposed to this approach are some in the legal services movement who believe that the most effective paralegals for the poor will be those whose education and background are similar to the clients. (However, note that in practice OEO legal services tends to take those with some college experience). It may not, of course, be necessary to resolve this question one way or the other since there is merit to both positions. In the end, the entrance qualifications of a paralegal will turn on the nature of the work done, and variety of functions will lead to diverse kinds of paralegals.

3. Accreditation

Whether training programs should be subjected now to an accrediting agency, how such an agency should be established or selected, and who should control it are all pending issues. One view is that accreditation standards would be premature, since little experience is available and since the present threat to public well-being is minimal. Under existing rules paralegals cannot practice law, and there is little public policy justification for rushing to establish standards prematurely. However, if standards are to be set, the issues center around the role of bar associations. Several bar association committees comprised entirely of lawyers have addressed this question and proposed rules which if enacted would place complete control in the hands of the bar associations.

A better approach would seem to be the design of accrediting standards and creation of an accrediting agency should proceed with the involvement of all interested sectors: bar associations, paralegals, legal educators, colleges and representatives of the public.

4. Credentialing and licensing

These two screening processes may be a duplicative, although they sometimes exist side by side. Certification generally requires completion of an accredited program. Licensure involves prohibition of practicing and occupation until a state license is granted.

A number of patterns for licensing and credentialing of paralegals have been discussed. The ABA has suggested that there should be at least three levels, relating to one, two and four year college training programs. These would be vertical categories implying increased capacity, responsibility, and salary.

Other possibilities involve horizontal categories: the legal technician who works behind the scene on one specialty; the generalist who handles routine general law practice problems; the advocate who specializes in representation and administrative hearings; the criminal paralegal who works with prosecutors or public defenders, and so on.

One problem under any system is what to do with current paralegals. In almost all quarters a grandfather provision is contemplated to insure that incumbents are not injured.

An unavoidable and nagging problem is one of testing. If licensing and credentialing are not connected to an accredited training program exclusively, some form of testing would seem inevitable. The nature of an appropriate test has not been explored, and given the wide variety of paralegal roles would seem to be difficult to design.

5. Unauthorized practice and ethics

The precise question is not what a layman can do, but what a trained layman working for a lawyer can do. A great deal more study is needed than is available. Some lawyers believe that interviewing clients, doing legal research, and drafting legal documents are all forbidden territory. A survey of paralegals in major law firms reveals, however, that most paralegals do these things under the supervision of lawyers. It is clear that within OEO legal services they do these and more.

One factor bound to enter into the discussion is the public need for legal services. If paralegals represent the extension of service to those who will be otherwise deprived, the right of the public to paralegal assistance may reach constitutional dimensions. Even short of this, it would be unseemly for lawyers to prohibit paralegals from giving services they themselves cannot supply.

Perhaps the most troublesome issue is "legal advice." Some courts have found that laymen cannot advise others on how to get an uncontested divorce or draft a simple will. The question of whether a laymen under the supervision of a lawyer could so advise was not raised. If, however, it is a rule that laymen cannot give general advice, can they give specific advice such as the steps to be taken by a tenant who has received a notice of eviction? Is the problem obviated if the paralegal transmits specific advice received from a lawyer? Are there areas of traditional legal practice which should be extracted from "the law" and thus be amenable to paralegal service?

Further definition is also needed on the impact of many federal and state provisions that laymen can represent clients at administrative hearings (welfare, workmen's compensation, disability insurance, etc.). Do these laws imply that a layman can do all the necessary preparation and work leading to a hearing, including advise the client, prepare documents, and invoke confidentiality?

These questions all need further study. Fortunately for paralegals, bar associations have not pressed these issues, partly because they are the indirect beneficiaries of paralegal work, and also because whatever violations may be occurring are likely connected to legal services to the poor about which private attorneys have never been deeply fearful.

6. Creation of public sector jobs

There is a natural market for paralegals in the private sector with attorneys who see paralegals as profitable. In the public sector, particularly OEO legal services, although paralegals are wanted, government funds are not always available. A number of federal, state and local agencies have expressed interest in employing laymen with paralegal competence, but funding for specific jobs is rare. Since growth of the paralegal occupation in the public sector will require government agency commitments to create new jobs, and to support the training, progress may be slow. Thus, while it may be that the greatest potential paralegals are in public law, the heaviest utilization in the near future may be among private lawyers.

There are, however, many existing jobs in government agencies for which paralegal training is excellent preparation. Granting, contracting, enforcement and investigatory agencies are likely to increasingly hire trained paralegals as they become available.

7. The role of law schools

It is somewhat anomalous that the training of laymen in the law has proceeded thus far with little law school involvement. Only three law schools are known to have undertaken any training: Columbia, Denver, and West Los Angeles. Only the last has an ongoing training program. Few people are urging that law schools become the major resource for paralegal training; but it seems clear that they should have a substantial role. Four possible roles, at least, need serious consideration:

1. Research and study on the issues mentioned above and others, which should be done by some objective and scholarly group.

2. If paralegal training is to reside in community colleges, they must have support, backing, and technical assistance from individuals familiar with the legal profession, the nature of legal training, the functioning of lawyers, and the status of the job market. A partnership with community colleges and law schools to this end may be useful.

3. Training of lawyers in using paralegals. The unanimous opinion of those in the paralegal field is that lawyers must be trained, oriented and re-educated to work with paralegals. Law schools could undertake this for its students and as continuing education for members of the bar.

4. Involvement of paralegals in clinical programs. As an extension of the thought above, law schools may involve paralegals in clinical training programs to work with students. This would provide benefit to students by involving them in the teaching process, as well as by training them to function with paralegals.

The role of the law schools in the accreditation, licensing and credentialing process has already been mentioned. As the trainers of professionals, their interest and experience should support a major role in designing the new legal occupation.

8. Training for profit

At least two schools have entered the paralegal training field for profit. The Institute for Paralegal Training in Philadelphia has been quite successful and some believe they plan to franchise the operation around the country. An imitator of the Philadelphia Institute has been founded in New York City, but is said to be having difficulties. It has been reported that that organization is in trouble over agreement to reimburse tuition to students who do not find jobs, since some students have been having difficulties in that regard.

The American Bar Association is bothered by entrepreneurial programs, and may prohibit them. This is somewhat anomalous since the Philadelphia Institute graduates are usually highly regarded by the major law firms in which they work. However, the specter of abuse by enterpreneurs is real.

9. Shortage of lawyering jobs

In the last several years lawyering has become very popular, and there are not enough jobs for those lawyers now graduating. Some worry that paralegals may impinge upon the job market, and substitute laymen for lawyers when lawyers need jobs. ABA leadership is sensitive to this question. However, it is unlikely for several reasons that the paralegal movement will be slowed because of it. First, jobs to paralegals are provided by lawyers who see them as efficient and economical substitutes for lawyers, and some cases find that paralegals do better work than lawyers. So long as their perception is operative, lawyers will hire paralegals over other lawyers. Second, paralegals promised to provide service to areas that the bar does not seek to penetrate: service to the poor and lower middle class where fees are inadequate to substain a lawyer's style of life. Finally, prepaid and group legal services will require highly efficient techniques in order to properly service groups at a reasonable premium. Lawyers who do not use paralegals in this area of work will probably find that their prices are not competitive.

A surplus of lawyers combined with healthy expansion of the paralegal occupation may lead law school aspirants away and reduce the admission pressures on law schools.

CONCLUSION

The creation of a new professional layer in law is long overdue. Traditional lawyering procedures are inefficient and expensive. As a result the power of the legal resources are reserved for those whose wealth and power is already substantial. Paralegals can help to reduce the cost of legal services and extend them to people who cannot now afford the price. In our complex society where rights and remedies often turn on legal concepts, the current imbalance of legal help for citizens leads to injustice and tends to undermine the social structure.

Paralegals will make life easier for lawyers who now try to handle virtually every element of a legal case except the typing. Legal service will improve as lawyers spend more time on the things they do best. It is also becoming apparent that trained laymen can do some parts of the "lawyering process" better than lawyers can.

As time goes on, paralegals may take more responsibility for clients problems and, ultimately, simple law-related problems will no longer be viewed as the "practice of law" for which one must have a three-year law degree.

The National Paralegal Institute plans to help the expansion of the paralegal movement by lending its knowledge, materials and experience, through consulting and technical assistance, to any organization seeking to train or use paralegals in the public interest law sector.

STATEMENT OF JAMES MILLER

I am James I. Miller, a paralegal employed by the Community Legal Services, Inc., in Philadelphia, Pennsylvania. My formal education was curtailed many years ago by the consequences of having been born black and poor. By the time economic opportunity became available to black people, I had insured that my formal education would not be resumed due to a further consequence of having wasted my young years in a rather anti-social lifestyle.

Today, thanks to the concern of many truly committed people in Legal Services, I am able to come before this important body and speak for thousands, who, like me, feel they may be legislated out of the emerging paralegal profession. I speak also for the vast number of persons who may still find their way to the paralegal profession as a result of community involvement; those working in and for tenant organizations; consumer protection and education; mental health programs; those who dedicate so much time and effort toward improving the lot of our senior citizens and welfare mothers seeking self-respect and personal dignity.

I can realize the tremendous contribution such people make to the community because I have, at one time or another, through one way or another, received the beneficial blessings of their contribution. My wish now is that, with the proper training, I, too, can render a valuable and constructive contribution.

I would be bordering on the threshold of impertinence were I to presume to instruct this Committee as to what national body should be delegated to oversee or conduct the accreditation of paralegals.

Likewise, I do not believe you would appreciate my advising you as to what paralegals should or should not be licensed. However, as one of the best paralegals in one of the best legal services programs, staffed by some of the best attorneys in the East, I can say to you: the time has not arrived where it is necessary to accredit paralegals. Any attempt to test and license paralegals at this point would require as many types of licenses and tests as there are types of paralegals. In addition, it would be almost impossible on this date to obtain two descriptions of what a paralegal is, or what he does, which will appear even remotely the same.

I find it strange to consider accrediting a "thing" which lacks definition. The fact that this emerging occupation is not accreditable at the present does not mean it will remain so. When lawyers learn to not feel threatened by paralegals; when the Nation's law schools become supportive of paralegal training; when law offices learn to fully utilize paralegals; when a composite body of lawyers, businessmen, paralegals, and educators can be found to administer accreditation; then, I hope to be among the first to seek Congressional involvement.

The mental gymnastics necessary to imagine any national body composed entirely of lawyers to administer testing and licensing of paralegals are not within my capabilities. Such a sophisticated group, insulated by their Ivory Tower existence from the needs of paralegals engaged in the delivery of legal service to the underprivileged; isolated by lifestyles alien to those they seek to control is doomed to failure.

They will be unable to generate growth of the paralegal movement because of their unfounded fear. They cannot train or test paralegals because they know little of what paralegals do. They will not encourage paralegals because the majority of paralegals are engaged in legal services which do not generate a fee.

In the event you are otherwise persuaded and you feel there is a compelling need for immediate accreditation of paralegals, I would urge that the accrediting agency be comprised of institutions, individuals, and agencies experienced in the delivery of legal services to needy people. An agency thus composed is more likely to assure the legal profession will be enhanced by the continued activities of paralegals in that it will be relying on experience in poverty law, whereas one of the bar associations could only proceed on the narrow margin of opinion as to what is, or what should be, done.

Enactment of any legislation designed to control or further constrain paralegals must be considered with the view that paralegalism is not aimed at destruction of the legal profession; rather, it is aimed at fulfillment of the traditional promise of the legal profession—justice and equality under the law.

Senator TUNNEY. Our next witness is Mr. Austin Anderson, the chairman of the American Bar Association.

STATEMENT OF AUSTIN G. ANDERSON, CHAIRMAN OF THE AMERICAN BAR ASSOCIATION

Mr. ANDERSON. Senator Tunney and members of the staff, it is my pleasure to be here today as the chairman of the American Bar Association's Special Committee on Legal Assistants. At the present time, I am the director of the Institute of Continuing Legal Education at the University of Michigan in Ann Arbor, Mich. I have been a member of the ABA Special Committee on Legal Assistants since it was formed in 1968, and have been chairman for the past 2 years.

The development of the legal assistants or legal paraprofessionals is a concept that has recently attracted considerable attention from the organized bar and from many individuals who are considering this as a possible career field. The increased use of legal assistants by the legal profession is surely one of the most significant trends to emerge within the last 20 years. It has the potential for encouraging innovation and improvement in law office organization and operation and for providing a better quality, lower cost service to the client, as well as providing a career for many competent and educated individuals interested in law and the administration of justice.

The first pronouncement of official ABA policy in this area came in August of 1968 when the ABA house of delegates adopted a recommendation from the Special Committee on Availability of Legal Services providing:

> 1. That the legal profession recognize that there are many paths in serving a client's need which can be performed by a trained, nonlawyer assistant working under the direction and supervision of a lawyer;
>
> 2. That the profession encourage the training and employment of such assistants; and
>
> 3. That there be created a special committee of the association to consider the kinds of tasks which may be competently performed by a nonlawyer working under the direction and supervision of the lawyer; the nature of the training which may be required and provided to develop competence and proficiency in the performance of such tasks; the role, if any, to be played by the legal profession and the bar in providing such training; the desirability of recognizing competence and proficiency in such assistants as by academic recognition or other suitable means; and all appropriate methods for developing, encouraging and increasing the training and utilization of non-lawyer assistants the better to enable lawyers to discharge their professional responsibilities.

Shortly after the committee was created in 1968, an ambitious plan was outlined which called for completion of the committee's work within 2 or 3 years. We were a little naive at that point relative to what lay before us. Even at that early date there was a definite feeling on the part of the committee that the legal assistants concept would catch on rapidly, as it has. It soon became apparent, however, that such a timetable would not allow for sufficient input from other interested groups and individuals and for the necessary experimentation and exchange of ideas. In order to allow for this exchange, the committee's work has now covered a period of 6 years and will continue into the coming year.

One of the first projects undertaken by the committee was the examination of the paraprofessional in other professions. That study has been completed. I believe that pamphlets of it have been provided to you. I am familiar with this study because I conducted it and developed the pamphlet—indicating the paraprofessional in medicine, dentistry, and architecture.

In September of 1970, in cooperation with the San Francisco Bar Association, we conducted a 3-week program for lawyers and legal assistants. It became apparent at that program that we had to devote more time to the training of lawyers in the necessary techniques and practice methods of effective use of nonlegal personnel.

Then in an effort to determine what tasks were actually being performed by nonlawyers in law offices, a survey of both large and small firms, corporate legal departments and other legal entities was undertaken and completed in 1970. The results of this survey were published in a pamphlet entitled "*Liberating the Lawyer*," which also has been made available to you.

Because the committee had been successful in selling the idea of the training and use of legal assistants to the bar, and the bar was in turn looking to educational institutions, the committee then developed *The Proposed Curriculum for the Training of Law Office Personnel* which was published in 1971 and resulted from the analysis of the task previously performed in law firms. I am reasonably familiar with that because I also drafted that particular document for the committee.

Then the committee began a series of conferences to insure at all times that it was, in fact, communicating with all interested bodies. I'm digressing from the statement, which has been submitted to you, if I may.

Senator TUNNEY. It will be included in the record as if read.

Mr. ANDERSON. The first conference was held in June 1971 at Denver University Law School to which was invited a truly broad spectrum of people: lawyers from both the private and public sector, educators, legal assistants, social workers, and legal secretaries. The results of that conference are included in this publication, "New Careers in Law: II," which is again available.

Between 1971 and 1973, the committee, in conjunction with educational institutions began to develop institutional standards for the accreditation of legal assistant programs. The first document was reviewed at a conference in May 1973, also in Denver at Denver University Law School to which were invited legal educators, practicing lawyers, representatives of many bar association sections and committees, educators and administrators from legal assistant programs, and representatives from the Association of American Law Schools and the National Paralegal Institute. We spent a full day reviewing and digesting the proposed standards at that point. As a result of that conference, a final draft of accreditation guidelines, as they are identified, was prepared. These were adopted by the American Bar Association house of delegates in August of 1973.

To insure that we were in concert with the institutions affected by these guidelines, the committee met in October of 1973, with representatives of six institutions which were already engaged in the training of legal assistants. To review the guidelines as adopted and to receive their suggestions relative to detailed criteria, that is, the implementing document. We wanted to be certain that we were in concert with what the schools were able to do and that we did not create something unmanageable for them.

The latest conference we sponsored was in May 1974, to which we invited deans and directors of these programs; there were some 50 in attendance. At that time we reviewed not only the guidelines and detailed criteria, but created a forum for the deans and directors to exchange information relative to program developments taking place to be assured that they had available to them all of the information that was available at that time.

Prior to this meeting, in developing the implementing criteria, the committee conducted four on-site visits to institutions, at Cumberland

Community College in Vineland, N.J.; at Portland Community College, Portland, Oreg.; at the Institute for Paralegal Training in Philadelphia; and at the University of Minnesota, Minneapolis, Minn.

The current plans for the committee, in response to a question raised in the invitation to appear, include the continuation of the survey and study of noninstitutional or nondegree programs for the training of paralegals; cooperation with the section of economics of law practice of the American Bar Association in the development of one or more programs to advise State and local bar associations of the developments taking place in this field, and to coordinate and promote the legal assistant concept among members of the legal profession; to accept name of applications from institutions seeking approval of legal assistant training programs; cooperation with the American Association of Community and Junior Colleges in it efforts to develop and promote additional programs for the training of legal assistants; and continuation of the study to determine the desirability of certifying levels of competence of individual legal assistants.

The committee has not taken a position relative either to the licensure of legal assistants or the certification of individual legal assistants. It is studying this, but has moved only in the area of accreditation of institutionally based programs.

During the past year the number of educational institutions offering legal assistant training programs has more than doubled. The total now exceeds 70. The need for the establishment of standards for accreditation seems evident to me. Meaningful standards will provide guidance for institutions offering courses in this field. They will be of assistance to prospective students in selecting schools that meet certain minimum requirements, and they will be of assistance to employers interested in hiring individuals from formal institutional programs.

I would like to reiterate what is stated in the guidelines, however, that an individual's ability to perform as a legal assistant may be evidenced in a number of ways, including formal education programs, on-the-job training and/or work experience and by the successful completion of an examination. Although this document is concerned only with the formal education programs for the training of legal assistants, it is not intended to limit entry into this career field by other means.

While the committee is aware that a variety of educational programs may provide an opportunity for the education of legal assistants, it has determined that standards should be developed for the accreditation of programs of not less than 60 semester or quarter hours.

In summary, throughout the committee's existence, it has made special efforts to maintain liaison with other interested sections and committees of the association, as well as with other interested individuals and organizations. The committee has been hosting hearings with representatives from both the public and private legal assistant organizations to insure that the committee has had the input of those groups potentially affected by the work of the committee.

Over 30,000 copies of the committee's publications have been distributed in an effort to insure the communication of ideas and to obtain valuable input so essential to the work of the committee.

We have held three conferences and have continually consulted with individuals throughout each year of the committee's existence.

We feel that there has been great progress since 1968 and sincerely appreciate this opportunity to report on the activities of the association.

Senator Tunney. Thank you very much. Mr. Anderson.

That's a vote—acknowledging buzzer. I'm going to have to go down and vote. And I understand it's back-to-back with another vote.

So it will take me probably about 15 to 20 minutes to get back. I have some questions for you. I'll be able to go until 1:30 and then I have to, myself, recess till 2:30 because I have a luncheon engagement that I've already pushed off from 1:00 to 1:30.

And I would just like to ask the other witnesses that we will have—I hope we will be able to get Mr. Allen in prior to 1:30.

Are Professor Quinn and Mr. Dickey present? Would coming back at 2:30 be all right with you?

[Discussion off the record.]

Senator Tunney. All right, then. What we'll do is: When I come back, I'll ask you gentlemen to submit your statements as if read and, perhaps, summarize the highlights—in 5 minutes each. And, then, I've some questions for each of you.

We've had your statements in advance, so I know what you are going to be saying. And, then, I could spend 10 minutes questioning you on your statements, so we'll be able to get both of you in before 1:30.

But, in the meantime, I'm going to go down and vote and I'll be back in, probably, 15 to 20 minutes.

[Off the record.]

Senator Tunney. Mr. Anderson, you were saying, in your testimony, that the paralegals were lower in cost. Do you have any evidence of this? Did the bar in your section do any research to obtain that information?

Mr. Anderson. During the period of my career as the administrative partner of a hundred-lawyer law firm, we employed 27 legal assistants, all of whom we trained in-house.

And I am not sure that we've lowered it because the matters weren't in the office before they came on. But what we did was: we would bill their time on an actual cost to the client, so that we were, in fact, saving the clients money.

If I can respond, also, I do a lot of work in terms of law office management—the management of law firms. And I've been traveling around Michigan and meeting the lawyers in Michigan.

Now, in Michigan—at least in probate administration, lawyers are required by many probate judges to account for the manner, the kind of activity, and the amount of time and the dollars involved in the administration of the estate.

And what has been determined is that the law firms now use legal assistants to provide these services at lower cost, so that they are, in fact, able to pass that on to the client. So that is my exprience.

Senator Tunney. You heard me mention in a question to another witness that I am considering offering an amendment which would provide Federal funding for a program to train paralegals to assist the elderly.

What is your opinion of that?

Mr. Anderson. I think that we can use paralegal training in a great many areas. I would concur with Mr. Fry that it be left open ended.

And I would think that because there are a number of institutions that are now involved in the training and have some expertise—that they might have an opportunity to participate in the program and I think that might be helpful.

Senator TUNNEY. Professor Quinn stated in his testimony—he'll be testifying later—and he was speaking of the ABA guidelines:

> There Guidelines have had, in my judgment, a profoundly directive influence, with the result that the bulk of paralegal training is now taking the form of 2-year training programs in junior colleges. Whether this is a good thing or not is subject to some dispute.

And he continues:

> The best intentioned efforts to accredit one type of program cast something of a pall on other "unaccredited programs"—a result which is doubly unfortunate where there is no clear consensus on how paralegals are best instructed and where the situation requires a great deal of flexibility.

Now what is your opinion to Mr. Quinn's statements?

Mr. ANDERSON. There are a number of ways to train legal assistants. At the outset, a number of 2- and 4-year institutions came to the committee and asked us to develop curriculums, and that then led to the guidelines. This is one road that might be taken.

In addition to that, there are among continuing legal education organizations a number of programs which would be available to the training of a person who is already employed. This is certainly true in the State of California. We have in Michigan planned six courses to be offered during this next calendar year for the training of those persons who are already employed by law firms. And so there are many ways to go. And the guidlines are really—are appropriate to those 2-year institutions that want to elect that road.

The committee has made every effort to point out on every occasion that—again, there are these many avenues. We encourage all of them, and are very supportive of them.

Senator TUNNEY. In other words, you do not feel that only one type of program should be accredited—that another, should be accredited?

Mr. ANDERSON. Well, the attack we adopted is to take it one step at a time. And the first step was the ongoing institutions. And to work with them—because they were in it already.

And the next step: the committee this next year will examine all of the—it sounds like an insurmountable task—but as many of the other means by which legal assistants are trained, to see where the standards or guidelines can be developed for those additional kinds of training. What that leads you to, though, is, of course, the possibility of certification. And we are aware of that. And we are not taking a position on it.

Have I responded?

Senator TUNNEY. But you would not dispute Professor Quinn's statement of the fact that you have only indicated approval of one type of program and casts a pall on other types of programs?

Mr. ANDERSON. I would dispute it without question.

Senator TUNNEY. You would dispute it?

Mr. ANDERSON. I would dispute that, both as chairman of the committee and having delivered almost too many speeches on the subject. Again, we have been careful to point out that this is not the only route; and I would—if I could just pursue that for just a couple of seconds—there has been a temptation to overlook the preamble to the policy guidelines and which, on page 2, state: "There are a number of avenues to becoming a legal assistant." And, because we are mindful of this and did not want to cast a pall on other means by which one might become trained, there is a very unique program going on at Amherst—the Amherst division of the University of Massachusetts, which has elected to follow the guidelines, but has devoted most of its training efforts to the public sector, if you will, while also offering courses for the private sector.

And so, the guideline, so far as I can tell, have not had any inhibiting—have not inhibited the growth and the flexibility, and the imagination. It's really been the needs of the local bar and the imagination of the program director.

Senator TUNNEY. In your view, what would be the cost and benefits of extending a moratorium on accrediting training programs until more data can be gathered on any program?

Mr. ANDERSON. An open-ended moratorium would not be helpful to anyone, I don't believe. In excess of 70 institutions presently are offering programs. And, with the guidelines having developed with them, and their having requested that we recognize them for their efforts to develop viable programs for the legal profession, I would think it would be: one, a disservice to them—and there are perhaps 8 or 10 who are at this point—have been in business all that long—within the next year, this will double. So I think it would be a disservice to them.

I think it would be a disservice to the students who are making application to the various institutions, because, be they public or private, there are some that are better than others. And so I think it would be unfortunate for them, and it would also be unfortunate for the employers themselves not to be able to make a judgment among students from those institutions.

We have attempted to move very deliberately, but in complete consultation, and would expect to do so. And, as times change and situations change, I expect the guidelines—I know that they will be continually reviewed, as will the detailed criteria in view of situations that emerge. I don't think there's anything lost.

Senator TUNNEY. Paul Shapiro who testified representing the Institute of Paralegal Training indicated that there was a danger of flooding the paralegal market with graduates from degree-related programs who may turn out to be unemployable. What's your thought about that?

Have you done any studies, for instance, to determine whether or not that be true?

Mr. ANDERSON. Studies of whether there would be flooding?

Senator TUNNEY. Yes.

Mr. ANDERSON. I suppose if each of the community colleges in this country had a program, that there could very well be flooding. But, again, we've attempted to cover this in the guidelines, in that each institution, in order to be recognized, and I quote from section 203:

> The legal assistant education program, including programs offered by law schools, shall have an advisory committee including practicing lawyers, legal assistants from the public and private sector, faculty and school administrators, and one or more members of the general public.

Now the thrust of that statement is to insure that the program is meeting initially a local need. And, if there is a need, the institution is going to be encouraged to go forward. If there is not a need and, with the difficulty which educational institutions have in securing funds, there is going to be a resistance or a reluctance to go forward. And so that was the first instance. We wanted to be sure that this was a viable kind of thing.

Senator TUNNEY. And one final question. What role do you think the Federal Government should play in all of this?

Mr. ANDERSON. I think as an interested observer. But I would—because I would hope that among the agencies, the institutions, the legal assistants themselves, that all of these problems can be handled on a very fair and equitable basis.

Senator TUNNEY. On the other hand, it does seem that it is possible for the Federal Government to become involved in an indirect sense, and maybe financing students who want to study to be paraprofessionals?

Mr. ANDERSON. Yes. And, if there are, then there would be regulations that HEW already has relative to the funding of those students. And, certainly in a financial sense, I can appreciate this, and it would be helpful to those students.

But, if you are looking at a unit to supervise and to insist that all get together, I don't think that that would be the best.

Senator TUNNEY. Not the best role for Government to get involved in the accreditation of the paralegals at the schools?

Mr. ANDERSON. I would want to separate those two. One would be the certification. And I guess I wouldn't want to be saddled with attempting to certify legal assistants if I were in that position.

With respect to the approval of accreditation of programs, I think the National Commission and it's soon to be organized successor have done a pretty credible job. And I would think that, if we're called upon and others are called upon to meet their standards, that that should be a fair indication that they have it reasonably well thought out.

Senator TUNNEY. Well, thank you very much, Mr. Anderson.

As I mentioned, there are other witnesses. We could ask you many more questions, but we are under constraints of time. And I want to thank you for being so concise. We appreciate it.

[The complete prepared statement of Austin Anderson, on behalf of the American Bar Association, is as follows:]

STATEMENT OF AUSTIN G. ANDERSON ON BEHALF OF THE AMERICAN BAR ASSOCIATION

Chairman and members of the subcommittee: My name is Austin Anderson. I am director of the Institute for Continuing Legal Education in Ann Arbor, Michigan. I have been a member of the American Bar Association Special Committee on Legal Assistants since it was formed in 1968, and I have been chairman for the past two years.

The development of the legal assistant or legal paraprofessional is a concept that has recently attracted considerable attention from the organized bar and from many individuals who are considering this as a possible career field. The increased use of legal assistants by the legal profession is surely one of the most significant trends to emerge within the last twenty years. It has the potential for encouraging innovation and improvement in law office organization and operation and providing a better quality, lower cost service to the client, as well as providing a career for many competent and educated individuals interested in law and the administration of justice.

The first pronouncement of official ABA policy in this area came in August of 1968 when the ABA House of Delegates adopted a recommendation from the Special Committee on Availability of Legal Services providing:

"1. That the legal profession recognize that there are many tasks in serving a client's need which can be performed by a trained, non-lawyer assistant working under the direction and supervision of a lawyer;

"2. That the profession encourage the training and employment of such assistants; and

"3. That there be created a special committee of the Association to consider:

"(a) The kinds of tasks which may be completently performed by a non-lawyer working under the direction and supervision of the lawyer;

"(b) The nature of the training which may be required and provided to develop competence and proficiency in the performance of such tasks;

"(c) The role, if any, to be played by the legal profession and the bar in providing such training;

"(d) The desirability of recognizing competence and proficiency in such assistants as by academic recognition or other suitable means; and

"(e) All appropriate methods for developing, encouraging and increasing the training and utilization of non-lawyer assistants the better to enable lawyers to discharge their professional responsibilities."

Shortly after the committee was created in 1968, an ambitious plan was outlined which called for completion of the committee's work within two to three years. Even at that early date, there was a definite feeling on the part of the committee that the legal assistants concept would catch on rapidly, as it has. It soon became apparent, however, that such a timetable would not allow for sufficient input from other interested groups and individuals and for the necessary experimentation and exchange of ideas. In order to allow for this exchange, the committee's work has now covered a period of six years and will continue into the coming year.

One of the first projects undertaken by the committee was the examination of the paraprofessional in other professions. This study resulted in a published report entitled *The Paraprofessional in Medicine, Dentistry and Architecture.*

In September of 1970, the American Bar Association, in cooperation with the San Francisco Bar, conducted a three-week program for lawyers and legal assistants. As a result of this program, it readily became obvious that one of the major obstacles to the effective use of legal assistants was the training of lawyers in the necessary techniques and practice methods.

In an effort to determine what tasks were actually being performed by nonlawyers in law offices, a survey of both large and small law firms was completed in 1970. The results of this survey were published in a pamphlet entitled *Liberating the Lawyer*. In response to an increasing number of requests from educational institutions for guidance in the area of curriculum development, *The Proposed Curriculum for Training of Law Office Personnel* was published in 1971.

Following the completion of these studies, the committee held its first conference on paralegals in June of 1971. The proceedings from this conference have been published in a book entitled *New Careers in Law: II*. This publication is available from the American Bar Association, as are all of the other publications of the committee. Participants in the conference included practicing lawyers, educators, legal assistants, social workers and legal secretaries.

In May of 1973, the committee sponsored a Conference on Institutional Standards for Legal Assistant Training Courses. The purpose of this meeting was to evaluate and review proposed standards for the accreditation of legal assistant training programs. Persons in attendance included legal educators, practicing lawyers, representatives of many ABA sections and committees, educators and administrators from legal assistant programs and representatives from the Association of American Law Schools and the National Paralegal Institute. Based on this conference, a final draft of the accreditation standards was prepared. These were later adopted by the ABA House of Delegates in August of 1973.

The latest conference sponsored by the committee was in May of 1974. The purpose of this meeting was to bring together legal assistant program directors so that they might evaluate the guidelines, the detailed explanatory criteria accompanying them and the procedures for implementation. Immediately prior to this conference, the committee conducted four trial on-site visits to institutions having legal assistant training programs. The four institutions cooperating with the Association were Cumberland Community College, Vineland, New Jersey; Portland Community College, Portland, Oregon; The Institute for Paralegal Training, Philadelphia, Pennsylvania; and the University of Minnesota, Minneapolis, Minnesota.

The current plans of the committee for the coming year include:

1. Continuation of the survey and study of non-institutional or non-degree programs for the training of paralegals.
2. Cooperation with the Section of Economics of Law Practice of the American Bar Association in the development of one or more programs to advise state and local bar associations of the developments taking place in this field, and to coordinate and promote the legal assistant concept among members of the legal profession;
3. Acceptance of applications from institutions seeking approval of legal assistant training programs;
4. Cooperation with the American Association of Community and Junior Colleges in its effort to develop and promote additional programs for the training of legal assistants;
5. Continuation of the study to determine the desirability of certifying levels of competence of individual legal assistants.

During the past year, the number of educational institutions offering legal assistant training programs has more than doubled. The total now exceeds seventy. The need for the establishment of standards for accreditation seems evident to me. Meaningful standards will provide guidance for institutions offering courses in this field, they will be of assistance to prospective students in selecting schools that meet certain minimum requirements and they will be of assistance to employers interested in hiring individuals from formal institutional programs. It should be reiterated that the position of the committee and the Association regarding accreditation is, as stated in the guidelines,

". . . that an individual's ability to perform as a legal assistant may be evidenced in a number of ways including formal educational programs, on-the-job training and/or work experience and by the successful completion of an examination. Although this document is concerned only with formal education programs for the training of legal assistants, it is not intended to limit entry into this career field by other means. While the Committee is aware that a variety of educational programs may provide an opportunity for the education of legal assistants, it has determined that standards should be developed for the accreditation of programs of not less than sixty semester or ninety quarter hours."

Throughout the committee's existence, it has made special efforts to maintain liaison with other interested sections and committees of the Association, as well as other interested individuals and organizations. The committee has been hosting hearings with representatives from both public and private legal assistant organizations to insure that the committee has had the input of those interested groups potentially affected by the work of the committee. Over thirty thousand copies of the committee's publications have been distributed in an effort to insure the communication of ideas and to obtain valuable input so essential to the work of the committee. We have held three conferences and have continually consulted with individuals throughout each year of the committee's existence. I feel we have made great progress since 1968 and sincerely appreciate this opportunity to report on the activities of the Association.

GUIDELINES FOR THE APPROVAL OF LEGAL ASSISTANT EDUCATION PROGRAMS*

> The development of these Guidelines by the Special Committee on Legal Assistants was made possible through a grant from the American Bar Endowment to the ABA Fund for Public Education. Criteria explaining these Guidelines in greater detail are now being prepared by the Special Committee.

INTRODUCTION

The American Bar Association has a basic commitment to make legal services available to all segments of society. A major way this can be accomplished is through the increased use of legal assistants. This commitment was clearly enunciated in the report of the Association's Committee on Availability of Legal Services in 1968 which recommended that:

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*As approved by the American Bar Association House of Delegates on August 7, 1973.

1. The legal profession recognize that there are many tasks in serving a client's needs which can be performed by a trained nonlawyer assistant working under the direction and supervision of a lawyer;

2. The profession encourage the training and employment of such assistants; and

3. There be created a special committee of the Association to consider the subject of lay assistants for lawyers.

The adoption of these recommendations by the House of Delegates in 1968 constituted formal acknowledgment by the Association of not only the general desirabillty of encouraging the use of legal assistants, but also the specific responsibility of the organized bar with respect to all aspects of the training and employment of these individuals.

In February, 1972 the House of Delegates of the American Bar Association directed the Special Committee to concentrate its efforts on several activities including "the development of standards for accreditation of formal education programs directed to the training of legal paraprofessionals."

Pursuant to this directive, the Special Committee on Legal Assistants prepared the following Guidelines for the Approval of Legal Assistant Education Programs.

A first draft was prepared in April, 1971 as a part of the Proposed Curriculum for the Training of Law Office Personnel. This first draft was widely circulated with approximately 7,000 copies distributed. A second draft was prepared and circulated in May, 1973. A conference was held at the University of Denver School of Law on May 19, 1973. Approximately 50 persons were present, including representatives of the following American Bar Association sections and committees: Committee on Professional Utilization, Standing Committee on Economics of Law Practice, Young Lawyers Section/Military Service Lawyers Committee, Standing Committee on Ethics and Professional Responsibility and Section on Legal Education and Admission to the Bar. Deans and directors of institutions offering education courses for legal assistants, law school deans and facility members, the Association of Independent Colleges and Schools, The National Association of Legal Secretaries and The Association of American Law Schools were also present. A final draft was prepared and adopted by the Committee at its meeting on June 16, 1973.

The Committee recognizes that an individual's ability to perform as a legal assistant may be evidenced in a number of ways including formal education programs, on-the-job training and/or work experience and by the successful completion of an examination. Although this document is concerned only with formal education programs for the training of legal assistants, it is not intended to limit entry into this career field by other means. While the Committee is aware that a variety of educational programs may provide an opportunity for the education of legal assistants, it has determine that standards should be developed for the accreditation of programs of not less than sixty semester or ninety quarter hours.

The Committee attaches considerable importance to the contribution to be made by interested and affected organizations in the amplification of the Guidelines. It therefore proposes to continue to consult with these organizations in the further development of the Guidelines and the detailed criteria including the definition of the role of the legal assistant.

GENERAL PURPOSES, PROCEDURES AND DEFINITIONS

101 The American Bar Association is vitally and actively interested in ways and means of extending legal services in the United States. These Guidelines for the Approval of Legal Assistant Education Programs by the American Bar Association are promulgated in pursuance of that objective.

102 The American Bar Association believes that there should be a number of ways in which a person can demonstrate his competence as a legal assistant, one of which is the completion of a accredited program as determined by this document. Although this document is concerned only with formal education programs for the training of legal assistants it is not intended to limit entry into this career field by other means.

103 In order to obtain or retain approval by the American Bar Association, a program of education of legal assistants must demonstrate that its program is consistent with sound educational policies. It shall do so by establishing that it operates in accordance with the Guidelines.

104 The authority to grant and to withdraw approval is vested in the American Bar Association.

105 A legal assistant program will be considered for approval when it has been fully operational for two years and has graduated students.

106 An approved school should seek to exceed the minimum requirements of the Guidelines.

107 As used in the Guidelines:

(a) "Program" means a program of education for legal assistants;

(b) "Committee" means the American Bar Association Special Committee on Legal Assistants.

ORGANIZATION AND ADMINISTRATION

201 The parent institution shall provide the resources necessary to accomplish the objectives of its legal assistant education program and the program shall be so organized and administered as to utilize fully those resources.

202 With regard to finances, staffing, faculty rank and salary, appointment to policy-making bodies, program priorities and other academic affairs, the legal assistant education unit shall be given status within the parent institution comparable to other units of similar size and function.

203 The legal assistant education program, including programs offered by law schools, shall have an advisory committee including practicing lawyers, legal assistants from the public and private sector, faculty and school administrators and one or more members of the general public.

204 The parent institution shall maintain equality of opportunity in its education programs without discrimination or segregation on the grounds of race, color, religion, national origin or sex.

205 The present and anticipated financial resources of the parent institution shall be adequate to sustain a sound legal assistant training program.

206 Legal assistant education programs will be considered for approval if they are offered by law schools, four-year colleges and universities, two-year colleges, comprehensive technical institutes or vocational schools.

EDUCATIONAL PROGRAMS

301 The parent institution shall maintain a program for the education of legal assistants that is designed to qualify its graduates to be employed in law-related occupations, including public and private law practice and/or corporate or government law-related activities.

302 The program may emphasize some legal specialties and give less attention to others. If a parent institution offers such a program, that program and its objectives should be clearly stated.

303 The program of education for legal assistants shall be:

(a) At the post-secondary level of instruction;

(b) At least sixty semester or ninety quarter hours with not less than forty-five semester hours devoted to general education and law-related courses. The remaining fifteen hours should be devoted to legal specialty courses;

(c) Offered by a parent institution accredited or eligible for accreditation by an agency recognized by the National Commission on Accrediting, the U.S. Office of Education or an officially recognized state accrediting agency;

(d) An integral part of the parent educational institution.

FACULTY

401 The program director and instructors must possess education, knowledge and experience in the legal assistant field.

402 The program director shall be a full-time member of the faculty of the parent institution.

403 In the program of education for legal assistants, the parent institution shall establish and maintain conditions adequate to attract and retain a competent faculty.

ADMISSIONS AND STUDENT SERVICES

501 The admission policies of the program of education for legal assistants shall be designed to enroll students qualified for and interested in careers as legal assistants.

(a) A student admitted to the program must have a high school diploma or have passed an equivalency examination.

(b) Students are selected on a basis consistent with the philosophy and objectives of the program.

(c) A number of admission criteria, both objective and subjective, should be used to reflect a rational process for selecting students so that success as legal assistants can be reasonably predicted.

(d) Students may be admitted with advanced standing when their performance in parallel courses at other institutions or on special qualifying examinations meets established achievement standards.

502 Student services of the program shall provide for:

(a) A well-organized plan for counseling and advising students and assisting graduates in securing suitable employment; and

(b) Student participation in areas of curriculum review and development, in course and faculty evaluation and in all other matters relating to conduct and improvement of the program.

503 Pursuant to an established policy, the parent institution, without requiring compliance with its admission standards and procedures, may permit the enrollment in a particular course or limited number of courses, as auditors, nondegree candidates or candidates pursuing degrees in other areas.

LIBRARY

601 The parent institution shall have available a library adequate for its program of education of legal assistants.

PHYSICAL PLANT

701 The physical facilities of the parent institution shall permit the accommodation of varying teaching methods and learning activies.

702 Space, equipment and other instructional aids should be sufficient for the number of students enrolled in the program.

703 Faculty, administrative and other staff should have office and work areas suitable for performing their duties.

AUTHORITY

801 Consistent with the Guidelines, the Special Committee on Legal Assistants shall have authority to:

(a) Interpret the Guidelines;

(b) Adopt rules implementing the standards;

(c) Adopt procedural rules for the initial application by parent institutions and approval of programs of education for legal assistants and for the review and reinspection of approved programs; and

(d) Amend any rules from time to time.

All interpretations and rules shall be published and shall be available to all interested persons.

802 The Committee shall have the authority to consider any request for approval of a program of education for legal assistants. If the Committee decision is that approval should be granted, it shall so recommend to the ABA House of Delegates.

ADOPTION AND AMENDMENT

901 These Guidelines become effective upon their adoption by the House of Delegates.

902 The power to approve an amendment of the Guidlines is vested in the House of Delegates, but the House of Delegates will not act on any amendment until it has first received the advice and recommendations of the Special Committee on Legal Assistants.

Procedures for Approval of Legal Assistant Programs and Guide for Self-Evaluation Reports

PROCEDURES FOR APPROVAL OF LEGAL ASSISTANT PROGRAMS

The following procedures have been developed by the American Bar Association Special Committee on Legal Assistants for use in evaluating legal assistant programs seeking House of Delegates approval.

Application

The officials of an institution seeking provisional or final approval of its legal assistant program, shall apply by submitting a self-evaluation report to the Chairman of the Committee. Eligibility may be determined by consulting "Guidelines for the Approval of Legal Assistant Education Programs."

Final approval will not be granted until the program has been in operation for at least two years and has graduated students. Applications for provisional approval, however, may be made after the program has been in operation for one school year.

Approval by the House of Delegates will be given at either the Association's annual or midyear meeting. Applications for final or provisional approval must be submitted at least 120 days prior to the meeting at which the application will be considered.

The scheduling of evaluation visits is the responsibility of the Chairman of the Committee.

Evaluation team

The evaluation team is appointed by the Chairman of the Committee and should include representation from the staffs of other institutions offering legal assistant programs.

Prior to the on-site visit, members of the evaluation team review copies of the completed self-evaluation report and attachments, and should familiarize themselves with the information contained therein.

On-site visit

The evaluation visit provides an opportunity to obtain information supplementing that gained from the self-evaluation report. The visit usually takes one day, but the evaluation team holds an executive session on the evening before the visit to review the self-evaluation materials, to note those areas needing particular attention, and to plan the general format of the visit.

The visit usually involves the following activities:

1. Meeting with the program director to discuss the purposes of the visit and to outline the procedures to be followed.
2. Meeting with faculty to discuss the program.
3. Courtesy visits with the president or other administrators of the institution.
4. Meeting with the chairman of the advisory committee and as many of the members of that committee as possible. (If a representative number of the advisory committee cannot attend the meeting, written reports should be provided by absent members.)
5. A tour of the physical facilities, including library and classrooms.
6. Conferences with student representatives.
7. The evaluation team meets in executive session to assure itself that the established evaluation criteria have been substantially met. The appropriate institutional accreditation should also be verified by the evaluation team.
8. At the conclusion of the visit, the evaluation team again meets with the program officials to discuss tentative findings and recommendations. This meeting provides an opportunity to check on possible inaccurate and incomplete information and possible misinterpretation of what has been observed. At this meeting, the program director is advised as to when a report of the evaluation may be expected.

Evaluation report

The procedure for preparation and submission of the report should be as follows:

1. Each member of the evaluation team is assigned responsibility for preparing particular portions of the evaluation report.
2. The statements should be prepared promptly and sent to the Chairman of the Committee.
3. The Chairman prepares a preliminary draft of the report and submits it to the members of both the evaluation team and the Committee for their comments.
4. The final report is then prepared by the Chairman, incorporating the comments and recommendations received.
5. A copy of the final report is sent to officials of the institution for their information and comment.
6. Copies of the final report are sent to members of the Committee and the evaluation team for their final recommendation.
7. The final report, together with the recommendation of the Committee, is sent to the House of Delegates for action.

Action by the House of Delegates

Based on the recommendations of the Committee, the House of Delegates takes action, which may be:

1. To grant final approval: The institution is advised in writing of the House of Delegates' action and the term of the approved status.

2. To grant provisional approval: Applies to a program that has not yet satisfied all the eligibility criteria or has minor deficiencies which must be corrected before final approval can be granted.

The institution is advised in writing of the action of the House of Delegates. The notice shall contain the specific reasons for approval being provisional and state the maximum time allowed for the deficiencies to be corrected.

3. To deny approval: applies to a new program or to a program that has applied for re-approval.

The institution is advised in writing of the action taken by the House of Delegates. The notice shall include (1) the specific facts and reasons why approval or continued approval does not appear to be warranted; (2) the effective date of the House of Delegates action; and (3) the date by which an appeal must be received by the House of Delegates. The institution should be informed as to when it may apply for a re-evaluation for approval by the House of Delegates.

Appeals

Appeal from action of the committee shall be to the Assembly in accordance with Article V, Section 2 of the Constitution of the American Bar Association.

Annual report

Each year an approved program is required to furnish the Committee a report describing the current status of the program.

GUIDE FOR SELF-EVALUATION REPORTS

This report, prepared by the applicant institution for review by the Special Committee on Legal Assistants, is the primary means by which the House of Delegates determines whether approval for the program will be granted. An on-site visit will be made only if the report indicates that the program essentially complies with the "Guidelines for the Approval of Legal Assistant Education Programs." Therefore, it is important that all information requested by the Committee be supplied, and that supplemental materials such as catalogs, bulletins, reports or surveys also be included if they will be helpful in the evaluation process.

The following guidelines are provided to assist the institution in preparing the report. Careful attention should be given to each of the points listed.

Section I. General information

A. Name and address of the parent institution.

B. Regional or other association by which the institution is accredited (The U.S. Commissioner of Education is required by law to publish a list of nationally recognized accrediting agencies and associations which he determines to be reliable authority as to the quality of training offered by educational institutions. The Commissioner's office can provide help to new institutions in terms of the qualifying steps. In addition, the National Commission on Accrediting serves as a coordinating agency for accreditation activities in higher education and as such can provide assistance to schools seeking help in achieving institutional accreditation.)

C. Information about the following:

1. Year students first admitted;
2. Number of students currently in the program;
3. Number graduated from program last year;
4. Total number graduated since the inauguration of the program;
5. Type and date of last approval by the House of Delegates (if applicable);
6. Date of last visit by evaluation team (if applicable); and
7. Type of approval requested, i.e., provisional, final, or re-approval.

Section II. Organization and administration

A. Describe how the need for the program was determined.

B. Describe affiliation with organized bar associations and cooperation with the legal community as a whole.

C. Provide an organizational chart showing relationship of the program to the parent institution.

D. Describe the functional relationships of the legal assistant program with respect to:

1. Administrative authority;
2. Other units of the institution; and
3. Representation on governing councils, committees, other agencies of the faculty, etc.

E. Describe the budgetary provisions for the legal assistant program with regard to:

1. Source and permanence of financial support;
2. Adequacy of funds for faculty salaries as well as for support personnel, instructional supplies, equipment, research projects, program evaluation, etc.; and
3. Variations from budgetary procedures of other units of the institution.

F. Describe the advisory committee:

1. List the members of the legal assistant advisory committee by name and indicate the occupation or profession of each member and the organization or firm each represents.
2. How is the advisory committee appointed and what is the appointment term?
3. How often does the advisory committee meet?
4. What are the advisory committee's functions?

Section III. Educational programs

A. Describe total curriculum for the legal assistant program, including the following information for each legal specialty course:

1. Title;
2. Objectives;
3. Description;
4. Instructional methods;
5. Evaluation techniques; and
6. Number of credit hours.

Section IV. Faculty

A. Describe the role and authority of the director of the legal assistant program in the following areas:

1. Defining and implementing the objectives of the program.
2. Hiring qualified staff.
3. Determining financial needs and allocation of funds.

B. Describe policies relating to faculty-student ratio and workload of the faculty.

C. Describe the professional qualifications of the faculty and the administrative staff of the program. Show the composition; i.e., full-time, part-time, regular, adjunct, etc.

D. In regard to such matters as selection, promotion, salaries, academic status, etc., compare the faculty of the legal assistant program with the faculty of other units of the institution.

E. Describe procedures for evaluating faculty performance.

Section V. Admission and student services

A. Describe the criteria used and the procedures followed for recruiting and selecting students. (Attach copies of publicity of recruiting materials.)

B. Describe policies and procedures in regard to:

1. Admitting students with advanced standing for academic work done elsewhere; and
2. Special qualifying examinations based on valid experience outside the classroom or self-study.

C. Describe enrollments and projected enrollments:

1. What is the maximum number of students currently accepted into each legal assistant class?
2. What is the projected enrollment for the next five years?

D. Provide information about costs incurred by students for:

1. Tuition;
2. Books, other materials, and incidental fees; and
3. Placement.

E. Describe activities for, or services available to students in the following areas:

1. Orientation to the program and the career field;
2. Counseling and testing; and
3. Student organizations, associations, and representation on committees.

F. Describe how job placement is handled for graduates of the program, and provide detailed placement statistics for the years that the program has been in operation.

Section VI. Library

Describe the library facilities that are available to the students in the legal assistant program, particularly as to their suitability for the specialty courses. Identify the library as a:

1. Law school library;
2. Regularly staffed county or bar law library;
3. A section of a general library; and
4. A library set up specifically to serve the legal assistant program.

Section VII. Physical plant

A. Describe the facilities provided for the legal assistant program with reference to:

1. Classrooms and conference rooms;
2. Office space for the faculty and staff; and
3. Equipment, instructional materials, etc.

B. Supply information about community agencies or resources used to assist the faculty or to provide supplemental experiences for legal assistant students.

EVALUATIVE CRITERIA FOR GUIDELINES FOR THE APPROVAL OF LEGAL ASSISTANT EDUCATION PROGRAMS

GENERAL PURPOSES, PROCEDURES AND DEFINITIONS

G–101

The American Bar Association is vitally and actively interested in ways and means of extending legal services in the United States. These guidelines for the approval of legal assistant education programs by the American Bar Association are promulgated in pursuance of that objective.

G–102

The American Bar Association believes that there should be a number of ways in which a person can demonstrate his competence as a legal assistant, one of which is the completion of an accredited program as determined by this document. Although this document is concerned only with formal education programs for the training of legal assistants, it is not intended to limit entry into this career field by other means.

G–103

In order to obtain or retain approval by the American Bar Association, a program of education of legal assistants must demonstrate that its program is consistent with sound educational policies: It shall do so by establishing that it operates in accordance with the guidelines.

A. To the extent possible, the American Bar Association will provide guidance to institutions planning to start programs.

G–104

The authority to grant and withdraw approval is vested in the American Bar Association.

A. The authority to grant and to withdraw provisional and final approval is vested in the House of Delegates of the American Bar Association, acting upon the recommendation of the Committee.

G–105

A legal assistant program will be considered for approval when it has been fully operational for two years and has graduated students.

A. Application may be made for either provisional or final approval. Provisional approval is not a prerequisite for final approval.

B. Application for provisional approval may be made after the program has been in operation for at least one academic year. Provisional approval will be based upon review of the self-evaluation forms and, in some cases, a site visit by members or representatives of the Committee. Normally, the maximum term of provisional approval will be two years.

C. In appropriate cases, final approval may be made retroactive to a date no earlier than the date on which a program was in substantial compliance with these guidelines, except with respect to those requirements relating solely to time of operation.

D. Approved programs must submit a yearly report and apply for reapproval every five years.

G–106

An approved school should seek to exceed the minimum requirements of the guidelines.

G–107

As used in the guidelines:

(a) "Program" means a program of education for legal assistants;

(b) "Committee" means the American Bar Association Special Committee on Legal Assistants.

ORGANIZATION AND ADMINISTRATION

G–201

The parent institution shall provide the resources necessary to accomplish the objectives of its legal assistant education program and the program shall be so organized and administered as to utilize fully those resources.

A. The program should be provided with financial and other resources adequate to accomplish its objectives and to fulfill the obligations imposed by these guidelines. If the school providing the program is part of a multi-program institution, the parent institution should assume this responsibility.

B. The program should have clearly defined, publicly stated goals. It should also define explicit objectives for its specific program, stated in terms of the educational result to be achieved. These goals should reflect:

1. Consistency with the general principles of ethical legal practice as defined by the ABA Standing Committee on Ethics and Professional Responsibility.

2. Responsiveness to the needs of the constituency which the program seeks to serve, but also a recognition that the program should qualify the graduates to contribute to the advancement of the profession, rather than to serve only the purposes of one institution or locality.

3. Sensitivity to emerging concepts of the role of the legal assistant in the effective delivery of legal service in both the private and public sectors of our society.

G–202

With regard to finances, staffing, faculty rank and salary, appointment to policy-making bodies, program priorities and other academic affairs, the legal assistant education unit shall be given status within the parent institution comparable to other units of similar size and function.

A. The director-coordinator of the program and the instructional staff are delegated the authority necessary for developing and implementing the program to meet the stated objectives.

B. Communication and coordination is encouraged among administrative officers, faculty and students, representatives of other subject matter fields, other institutions, and the legal community.

C. The organizational structure of the program should be sufficiently flexible to respond to changes in the needs of the community or the legal profession. Planning and evaluating are conducted for continuous self-improvement.

D. There should be evidence of clearly established responsibility and authority for long-range planning for the conduct and evaluation of the program. Priorities should be defined relative to the development of physical plant, student and faculty recruitment, and expansion of the curriculum.

G–203

The legal assistant education program, including programs offered by law schools, shall have an advisory committee including practicing lawyers, legal assistants from the public and private sector, faculty and school administrators and one or more members of the general public.

A. The planning of new legal assistant programs should have been done in cooperation with state or local bar associations and representatives of law firms, legal agencies, and other potential employers of legal assistants.

B. A broad range of potential users of legal assistants should have been consulted throughout all stages of program development.

C. Feasibility studies should have been conducted prior to starting a program, and all educational resources of the community should have been involved in the planning to assure utilization of available expertise and to minimize duplication of effort.

D. A permanent advisory committee should be utilized, the members of which are completely familiar with the objectives of the program. Some specific functions of the advisory committee should be:

1. Developing standards to select qualified students for the program.

2. Determining the content of the training program on the basis of broad outlines provided by the committee.

3. Recommending space and equipment needs for effective training.

4. Locating outstanding, experienced and professionally able men and women to act as instructors.

5. Informing the educational institution as to changes occurring within the field.

6. Helping to determine future trends of a particular para-professional field.

7. Reviewing constantly the education program and recommending improvements for consideration.

8. Advising the administration about employment opportunities for graduates.

9. Publicizing the program and securing community cooperation and interest.

10. Assisting in the recruitment of qualified applicants for the program.

G–204

The parent institution shall maintain equality of opportunity in its education programs without discrimination or segregation on the grounds of race, color, relgion, national origin or sex.

G–205

The present and anticipated financial resources of the parent institution shall be adequate to sustain a sound legal assistant training program.

A. The budget for the program should include provision for the following:

1. Salaries for the director, teaching faculty, and supportive personnel comparable to that of other instructional units within the institution;

2. Instructional supplies, equipment, and library materials; and

3. Funds for research projects, program evaluation, and professional development of faculty.

G–206

Legal assistant education programs will be considered for approval if they are offered by law schools, four-year colleges and universities, two-year colleges, comprehensive technical institutes or vocational schools.

A. Unlike approved law schools which cannot be operated for private profit, a proprietary institution may conduct a program for legal assistants which may be approved under these guidelines.

EDUCATIONAL PROGRAMS

G–301

The parent institution shall maintain a program for the education of legal assistants that is designed to qualify its graduates to be employed in law-related occupations, including public and private law practice and/or corporate or government law-related activities.

A. The primary concern of a legal assistant training program is to develop occupational competence. The total program should, however, include general education as well as law-related courses. Where the general education is not provided by the institution offering the legal technical training, provision should be made to accept credit for appropriate courses completed elsewhere, working out cooperative arrangements with other institutions or exemption by examination.

B. The curriculum should stress understanding and reasoning rather than rote learning of facts. The technical courses should emphasize how the subject being studied is applied in the practice of law and should emphasize principles and procedures common to as many types of law-related activities as possible.

C. The curriculum should be responsive to changing needs and reflect research findings and experience related to the training and use of legal assistants. It should undergo continual review and reevaluation and incorporate new ideas relating to both curriculum design and instructional method. When appropriate, the curriculum should provide for continuing education for graduates of the program as well as legal secretaries and other paralegal personnel seeking to improve themselves in their present jobs.

D. There should be evidence of an organized plan for review and evaluation of the total program. The ultimate criterion for judging a legal assistant training program is whether it achieves its stated objectives. There should be evidence of earnest attempts to measure the extent to which students secure suitable positions, to determine how effective they perform duties related to their educational program, and to solicit the reaction of graduates to the effectiveness of their training and its relevance to the duties actually performed.

Evaluation should, therefore, include regular follow-up procedures directed to both graduates and employers to assess the results of the programs. The advisory committee should help to facilitate follow-up studies by stressing their importance, by encouraging cooperation between legal assistants and employers, and by seeing that the information acquired is used in the improvement of the program.

G–302

The program may emphasize some legal specialties and give less attention to others. If a parent institution offers such a program, that program and its objectives should be clearly stated.

A. As long as the stated objectives are being followed, the program may offer training in several legal specialty areas or only one.

B. The curriculum should be constructed in such a way as to provide opportunity for students to achieve upward mobility. A maximum number of credits should be applicable toward continued education for higher degrees or certificates with minimum loss of time and duplication of effort.

G–303

The program of education for legal assistants shall be:

(a) At the post-secondary level of instruction;

(b) At least sixty semester or ninety quarter hours with not less than forty-five semester hours devoted to general education and law-related courses. The remaining fifteen hours should be devoted to legal specialty courses;

(c) Offered by a parent institution accredited or eligible for accreditation by an agency recognized by the National Commission on Accrediting, the U.S. Office of Education or an officially recognized State accrediting agency; and

(d) An integral part of the parent educational institution.

A. Post-secondary education is defined as education provided through institutes, colleges, universities, schools or other institutions offering credentials primarily to persons who have completed their secondary education, satisfied equivalency requirements, or are beyond the compulsory high school attendance age.

B. For programs offered at the post-baccalaureate degree level, the general education requirements may be assumed to have been satisfied.

C. If the program is offered by an institution eligible for accreditation but not yet accredited, that institution must be actively seeking accreditation.

D. An institution devoted solely to the training of legal assistants may qualify under G–303(d).

FACULTY

G–401

The program director and instructors must possess education, knowledge and experience in the legal assistant field.

A. The program director and instructors should be committed to the training and use of legal assistants, and competent in the areas in which they are providing instruction.

G–402

The program director shall be a full-time member of the faculty of the parent institution.

A. The program director or coordinator should have sufficient authority and be allowed sufficient time to provide leadership in accomplishing the program's objectives. Working cooperatively with involved faculty, he should provide leadership in the following areas:

1. Defining, communicating, and implementing the philosophy of the legal assistant training unit.
2. Identifying and responding to the occupational and educational needs of the community.
3. Attracting, selecting, and retaining qualified staff.
4. Promoting the progessional development of staff.
5. Analyzing and presenting the needs for adequate program funding.
6. Encouraging and providing for the interaction of the facility with those of other disciplines or other units of the institution.
7. Selecting agencies and other institutions that can provide learning experiences supplemental to those provided in the parent institution and assuming responsibility for coordinating these experiences.

G–403

In the program of education for legal assistants, the parent institution shall establish and maintain conditions adequate to attract and retain a competent faculty.

A. In determining the adequacy of the faculty responsible for the legal assistant program, the following criteria should be applied:

1. The size of the faculty should be commensurate with the number and type of courses offered and the number and needs of students served.

2. The faculty teaching the legal specialty courses should be trained, experienced, and capable of effective teaching in the various substantive areas of law.

3. Definite measures should be employed to promote and encourage the professional growth of all faculty members.

4. The faculty should have rank, status, salary, and other benefits comparable to faculty of other units in the institution.

B. The faculty should be provided with essential clerical, technical, and other supporting services necessary to carry on an effective instructional program.

ADMISSION AND STUDENT SERVICES

G–501

The admission policies of the program of education for legal assistants shall be designed to enroll students qualified for and interested in careers as legal assistants.

(a) A student admitted to the program must have a high school diploma or have passed an equivalency examination.

(b) Students are selected on a basis consistent with the philosophy and objectives of the program.

(c) A number of admission criteria, both objective and subjective, should be used to reflect a rational process for selecting students so that success as legal assistants can be reasonably predicted.

(d) Students may be admitted with advanced standing when their performance in parallel courses at other institutions or on special qualifying examinations meets established achievement standards.

A. The descriptive literature of the institution should state clearly and reflect accurately the objectives and capabilities of the program. This information should be included in all catalogues and promotional materials. Evidence that this objective is being complied with can be obtained by reviewing the following:

1. Published statements of the school's aims and objectives;

2. Program descriptions or catalogues, bulletins, brochures, etc.;

3. Program proposals and statements of justification submitted to college committees, administrative officials, and funding agencies;

4. Statements by the administrative officers of the institution, the program director, the teaching faculty, and students and graduates of the program.

B. Entrance requirements should not be so restrictive as to exclude students whose previous academic record may not truly indicate their potential for success in the legal assistant field.

C. Within practical limits the program should accommodate students with diverse educational backgrounds.

D. Consideration should be given to admission with advanced standing of those students who have satisfactorally completed appropriate academic requirements, whether relating to general or to technical parts of the curriculum, and of those students, who meet established achievements standards through special qualifying examinations. In permitting students to qualify by examination, consideration may be given to valid experience outside the classroom, or self-study.

G–502

Student services of the program shall provide for:

(a) A well-organized plan for counseling and advising students and assisting graduates in securing suitable employment; and

(b) Student participation in areas of curriculum review and development, in course and faculty evaluation and in all other matters relating to conduct and improvement of the program.

A. There should be a program for orienting new students to the legal assistant field including a realistic description of job requirements and opportunities.

B. Throughout the program qualified counselors and advisors should be available to assist students in assessing their strength and weaknesses and in planning their program.

C. Career guidance should be continuous, and at the conclusion of the program conscientious efforts should be made to assist graduates in securing positions for which they are personally and professionally prepared.

D. Accurate placement records should be maintained for the legal assistant program, and this information should be available to officials reviewing the program for approval.

E. Students should have clear channels and frequent opportunities to express their views and make suggestions with the assurance that their proposals and opinions will be given fair consideration. Student participation in these matters can be encouraged through student organzations, joint student faculty groups, and through membership on appropriate committees.

G–503

Pursuant to an established policy, the parent institution, without requiring compliance with its admission standards and procedures, may permit the enrollment in a particular course or limited number of courses, as auditors, nondegree candidates or candidates pursuing degrees in other areas.

LIBRARY

G–601

The parent institution shall have available a library adequate for its program of education of legal assistants.

A. A library should be available containing volumes and materials which are relevant to and adequate for the courses being taught. The content, location and physical adequacy of the library should be approved by the advisory committee and should be developed and maintained with the supervision of the faculty.

B. Students should be instructed in the proper use of the library prior to being given library assignments.

PHYSICAL PLANT

G–701

The physical facilities of the parent institution shall permit the accommodation of varying teaching methods and learning activities.

A. General and special purpose classrooms should be appropriate in design and size for the classes offered and study areas should be adequate for the number of students enrolled in the program. Equipment and other instructional materials should be available for specialized activities either in formal course work or for independent study.

G–702

Space, equipment and other instructional aids should be sufficient for the number of students enrolled in the program.

A. Auxillary services such as secretarial assistance and equipment maintenance and repair should be specifically provided. Other supportive facilities such as storage and locker space, lunchrooms, and student and faculty lounges should be provided as deemed necessary or practical.

G–703

Faculty, administrative and other staff should have office and work areas suitable for performing their duties.

Senator TUNNEY. Our next witness is Mr. Wilbur Allen, the managing partner of Allen, Allen, Allen & Allen, a professional association from Virginia. And he's accompanied by Sally Fairbanks, administrative manager.

Now we have a half hour. I had thought that, inasmuch as you have to leave by 1:30, if you could please summarize your remarks so that I could ask you some questions. I would continue with you until 1:15 and make it equal time. And then spend the last 15 minutes, before I have to recess, with Mr. Dickey.

The statement of Wilbur Allen, Esq., of Allen, Allen, Allen & Allen.

Mr. ALLEN. All right, Senator. I'll try to make it even briefer than that if I may.

I had already summarized the original talk, so I'll try to get right down to it.

We feel that the use of paralegals can increase the quality of legal services and, at the same time, substantially reduce the cost. The attorneys in the Richmond area have been in practice for 10 years or longer and are generally charging somewhere around $50 to $75 an hour. The work of paralegals is being billed at somewhere around $15 an hour. It's easy, then, to see that, if a great deal of the routine work not requiring the services of a lawyer could be shifted to the paralegal, then the attorney could increase his own income and reduce substantially the cost to the client. In this day of rapidly rising costs, legal services are being priced beyond the ability of the average American to pay. The use of the paralegal could then reduce the cost of legal services to keep quality legal services within the financial means of almost everyone.

Now I thought I might take a moment here and show you the manner in which we use paralegals. And I made an office chart—which I don't know whether you can see up there, where you are. Maybe I can see it and you can see it.

Our firm specializes in negligence work. We represent the claimants, or the accident victims.

Now this orange you see here—this area is what we call the trial section. And these are the secretaries—or what we call the trial secretaries.

I won't go into much detail, but generally their work is of high quality; but somewhat similar to what the average secretary would do for the average lawyer.

Now the blue section we call our processing section. And that's a section where we use our paralegals to the greatest extent. And this would be different from what most law firms do.

In other words, in practice what we do, when an accident victim comes into the office, as an attorney, I might talk with him a couple of minutes. Then I take him down to one of the legal assistants who would get the facts and the medical information, make out the forms for the investigation to go into the investigation section, order medical reports, handle problems about getting the cars fixed, the total loss, getting the prices set up there, collecting medical pay, and that sort of thing. And I tell that client, when I take him down—I say:

> Now this legal assistant will be with you as long as the case is in the office. If you want any information about your case, don't call me; call the legal assistant. Because I'll be in court, out of town, or what-have-you. If she can't answer your question, then she can get in touch with me and I can get back with you.

Now that way—you can see how we can increase the quality of the service by the use of legal assistants, by giving the client a type of service that I don't think most lawyers, for time reasons, can normally give.

Our law firm also is a corporation. And this is our board of directors. And I'm the president of the corporation. And this yellow represents our administrative section through here.

Our assistant office manager draws all of our pleadings for the entire office, for all of the lawyers. And we've got that down to certain forms. And we find that can be done very well by a legal assistant. There, again, we think we can set up a better quality of pleadings by handling it that way. Now that is under my direction. But I, as one person, am able to supervise her and do the pleadings for the entire office.

Now this purple here represents what we call the appointment secretary. The problem there was feeding the telephone calls from the receptionist on new cases and separating any work we don't handle, and also telling the people that call in who obviously don't have an accident claim to have the legal assistant tell them so an appointment is not made for those people to come into the office and take time up unnecessarily. And it's her job also to get them an appointment with the attorney.

Then we have the research section here. And we have legal assistants working in that section under an attorney who handles the appellate work for the entire office.

Generally speaking, that gives you an idea of what the legal assistants do.

And, if you'll note here, we have 9 attorneys and we have 45 lay personnel. So, you see, 5 nonlegal to 1 legal. And you'll find in most offices, it's probably a 1-to-1 ratio—something like that.

Now the question comes up, though: will this work, say, for real estate, wills, or what-have-you?

Now there are law firms that have developed in those areas, and it does work. In my opinion, there's no question about it. You train a girl to talk to a client on a will; get the information. In fact, Lee Turner is one of the lawyers from Kansas City who is pioneering this. Somebody asked him at a Virginia Bar meeting. "Well, can you get a doctor to give the information on a will to a legal assistant?"

He said, "Well, I had a friend of mine come in, and I simply explained to him my time was $70 an hour; the legal assistant's time was $10 an hour". If he wanted me to do it, it was $500. If he was satisfied to give the information to the legal assistant and go through the process that I usually go through, it would be $150. There was no question of the choice he made. I thought that stated it up very well.

In our own city of Richmond, we have one attorney who does a tremendous amount of real estate work. He has his legal assistants go into court and they check the titles, the liens, the taxes, and all of the things that an attorney normally does. The legal assistant is well-trained and can do that type of work, in my opinion, just as well as a lawyer.

So I think the whole area of the use of legal assistants has a tremendous potential. And I think ultimately the public's going to be the beneficiary.

I know the Senators are aware of the fact that minimum fee schedules have been stricken down as a violation of the antitrust law. So that's going to put the law firms in competition more with each other on legal fees. And, to my way of thinking, if you use your legal assistants and can lower your costs and still make more money yourself, you can be more competitive with your fellow law firm. And those who are not going to be doing it, then I think, in a sense, the costs are going to be higher, and they're going to fall behind.

This might be an incidental benefit; but today, almost every day, we have college girls who haven't jobs coming into the office applying. So there's a tremendous labor pool for this type of thing, and as I said the public will benefit eventually. If you're really going to get the most out of a secretary, then you've got to get her out from behind the typewriter and shorthand pad and put her brain to work. And that way, you can get the most benefit from her. And she will enjoy the work more too, because it will be more challenging to her.

Now this is my - our office manager and administrative manager who hires and trains all our legal paralegals. She would like, if she might have a moment, to say something.

How's our time running?

Senator TUNNEY. Fine. Ms. Fairbanks.

STATEMENT OF SALLY S. FAIRBANKS, ADMINISTRATIVE MANAGER, ALLEN, ALLEN, ALLEN & ALLEN CORP., RICHMOND, VA.

Ms. FAIRBANKS. Thank you.

I think you have a copy of my statement. I really cut a great deal of this out, but I would like to say just a few words.

Our law firm, which is located in Richmond with a metropolitan population of approximately 500,000 people has for almost 20 years thrived to constantly upgrade the quality of legal services rendered to its clients, while reducing the cost.

We specialize, as Mr. Allen has told you, in personal injury loss. And, as the case volume multiplies, new attorneys have been employed. But the real increase in office staff has been the area of paralegal personnel.

Our lawyers, of course, make all legal decisions and set the necessary guidelines in every case. But the actual step-by-step processing of the case is performed by our legal assistants.

Clients who come to us are usually those who have experienced emotional or physical trauma. Many of them have been deprived of their livelihood and their transportation. Many are uneducated, underprivileged, and unsophisticated. For these reasons, in order to determine the nature and extent of the client's problem, and then to assist him in doing something about it, our legal assistants frequently spend 5 to 10 times as much time with such a person as you would need to spend were one of you gentlemen involved in a similar accident.

We undertake to find the client transportation, if his car has been so damaged that it is inoperable. And we attempt to obtain the best salvage value for him if his car is completely demolished.

Our legal assistants will also accompany clients to the clerk's office of the proper court where necessary, to assist them in qualifying for administrators in death cases. In cases where infants are involved, either as injured parties or as beneficiaries, special steps are taken to aid them in investing their funds, and setting up trusts with reliable banks and investment counselors. Such safeguards prevent the unnecessary depletion of an infant's funds.

The two areas most troublesome to our clients are recovery for automobile damage and medical payments, both first-party coverages. Insurance companies frequently dispute the value of autombile damage and often claim that certain medical treatment was unnecessary.

Without legal assistance, the client would be reduced to accepting any offer the insurance company made in settlement, regardless of the actual value of the property or expenditures made by the client. Our legal assistants spend a great deal of time in securing substantiating documents evidence in order to justify the clients claims.

Thus our legal assistants help us to meet a great human need at a time when the injured client has no one else to turn to. Investment in good will, as well as human relationships, is very worthwhile. From a business viewpoint, those we have helped recommend us to friends and relatives. This is a major source of continuing business, since most people do not get hurt a second or third time in automobile or related cases.

If the American Bar Association should endorse the teaching programs of the various paralegal institutes which have sprung up throughout the country and on college campuses, I feel it is most important that the bar, either on a local or national level, should closely supervise such programs to insure that the individuals are getting value received for their efforts and monetary expenditures.

It would be best if these programs were made uniform so that a high level of competence on the part of each graduate throughout the country can be assured. Perhaps an examination of the type now given by the National Association of Legal Secretaries for the professional legal secretary's certificate should be administered to all candidates who wish to become legal assistants.

A grandfather's clause might be incorporated to include those who have 5 or more years' experience as legal assistants. This could entail endorsements by local employers or bar associations.

However, even in this event, we feel strongly that some type of examination should be administered. Different lawyers require various levels of competence. And those persons not certified through examination might not measure up to the standards required by the law. To insure adequate supervision by bar associations, a system of licensing might be inaugurated. This would also foster a sense of professionalism.

As regards our staff, we constantly strive to upgrade the caliber of the paralegal assistants. We hire people with superior intellectual capacity who will respond to the challenge of an opportunity to do above-average work. We try to provide dignity and challenge to each person's job and seek to reward, encourage and respect the capabilities and contributions of each employee.

Lawyers, legal assistants, secretaries and all other personnel in our firm treat each other with respect, and all suggestions are carefully received and evaluated. Each person feels that he is a valuable contributing element to the overall welfare of the organization.

All of our employees from lawyers to mailroom assitants participate in the many fringe benefits which the firm offers, such as hospitalization, life insurance, disability insurance, bonuses, and profit-sharing. This overall approach has been extremely successful, and our turnover and absentee rates are far less than the national and local averages.

It is interesting to note that, because a few of the firms that pioneered the legal-assistant concept were primarily personal injury specialists, the misconception spread that only such a practice lent itself readily to the use of paralegal help. Within the last few years, however, such a notion has been largely dispelled. Currently, legal assistants are being employed to aid attorneys in the fields of corporate, tax, and real estate law, as well as in other areas.

The use of such well-trained personnel in the law office will help maintain reasonable legal costs, while preserving the quality of work produced. We feel this trend will greatly benefit the average consumer client who, until now, has feared seeking legal advice because of the prohibitive costs. But our ultimate goal is to furnish a necessary service to a strata of society formerly precluded access to legal help because of low income and poor education.

Thank you.

Senator Tunney. Thank you very much.

And I want to thank both of you for really excellent statements. I'm very impressed by the methodology that you've used in your firm, in order to provide a more efficient service to your clients at lower costs.

Can you tell me: How many cases do you handle every year with your nine lawyers?

Ms. Fairbanks. Approximately 1,200.

Senator Tunney. 1,200. And what do you think the savings to your clients is?

Ms. Fairbanks. Well, it is a tremendous savings for this reason. Over a period of 20 years, since we've pioneered this legal assistant concept, we have not changed our contingent fee which has been one-third.

Since that time, as you well know, with the increases in cost of doing business and the rapid inflation, other firms have had to increase their charges and charge many of the services to the clients. We perform innumerable services for which we make no charge. We go to traffic court with them. We handle property damage for them. We do all sorts of things to help them in many areas where the services are available and they have no concept how to go about securing the aid for themselves.

And, in this way, we have been able to maintain a one-third contingent fee for over 20 years and, at the same time, render, I think, far greater services to the client each year, because as we go along our assistants become more sophisticated in offering these services to the public.

Senator Tunney. You mentioned a copy of a booklet which you give to your clients entitled "Your Case and How We Handle It."

Could we have a copy of that?

Ms. Fairbanks. I don't have one here, but we'll be happly to mail one to you.

Senator Tunney. Fine.

Ms. Fairbanks. I think that particular booklet sets forth many of the services which we do provide for the client.

Mr. Allen. I think the point which Ms. Fairbanks is making—I would say that 90 percent of the clients we represent are uneducated and, really, when they come into the office, a lot of them don't hardly know where the accident happened. And they don't understand that, maybe, they have medical benefits under their medical pay, and insurance companies hassle them something awful about the car. And this is really worse in dealing with a collision carrier than it is in dealing with the guilty parties carrier. And so the car is somewhere at a storage garage running $4 or $5 a day storage and maybe it's been there 2 weeks before they get in the office. And you've got to get the car out of there and get it somewhere and get estimates on it. And it's a total loss.

Then usually they owe more at the bank on the car than they—than the car is worth. And the bank won't release the title. You get the title released and to get whatever money they're going to get on it—it's just on the fair price. It's a very time-consuming thing. And we make no charge. Our third contingency does not apply to any of those things. And so, through the legal assistants, we are able to see that those things get done—get a rental car where they don't have a car and all of those sort of things.

Senator Tunney. Mrs. Fairbanks, are you in charge of the paralegal assistants?

Ms. Fairbanks. Pardon?

Senator Tunney. Are you in charge of legal assistants?

Ms. Fairbanks. Yes. I hire these people and, as I said, I try to hire people with high intellectual capacity, because I find that they are able to make judgmental decisions which the average person would be unable to do.

Mr. Allen. I might add to that, in those without secretarial skills, so they can have a problem getting a job otherwise. In other words, no shorthand and typing—might be 20 or 30 words a minute, or none. And we find that we can teach them in a short time the little typing that would be required for the typing in their work.

Senator Tunney. Well, I'm sure, if your testimony today is an indication of your ability, Ms. Fairbanks, to choose paralegals, you do a very good job.

Ms. Fairbanks. Thank you, Senator.

Senator Tunney. Thank you. We appreciate it very much.

Thank you, Mr. Allen.

[The prepared statements of Wilbur Allen, Esq., and Sally S. Fairbanks, of Allen, Allen, Allen & Allen Corp., of Richmond Va., follow:]

STATEMENT OF WILBUR ALLEN, ESQ., OF ALLEN, ALLEN, ALLEN & ALLEN

RE PARALEGAL ASSISTANTS

The use of paralegals can increase the quality of legal services and, at the same time, substantially reduce the cost. The attorneys in the Richmond, Virginia area who have been in practice for ten years or longer are generally charging from $50 to $60 per hour. The work of paralegals can be billed at about $10.00 an hour. It is easy, then, to see that if a great deal of routine work not requiring the services of a lawyer could be shifted to the paralegal, then the attorney could increase his own income and reduce substantially the cost to the client. In this day of rapidly rising costs, legal services are being priced beyond the ability of the average American to pay. The use of the paralegal could then reduce the cost of legal service to keep quality legal services within the financial means of almost everyone.

A. Manner in which we use paralegals

This chart that I have may help you to understand the manner in which we use the paralegals.

1. Trial Section (Orange)

These lawyers have private secretaries and their work is somewhat akin to what is done by usual secretaries to lawyers, although on a higher level. For example, in our office, they prepare the Damage Statements, showing the losses to our clients, obtain verification, and mail this information, along with copies of medical reports, photostatic copies of hospital records and so forth to the insurance adjuster in order to permit him to evaluate the case. They follow that up and arrange for a conference between the lawyer and the adjuster. They also summons witnesses for trials, make outlines of statements of witnesses, as a part of a trial brief, and so forth.

2. Processing Section (Blue)

In this area, we would be quite a bit different from another law office. Initial contact is made with the lawyer, then he takes the client down to the processing section, and a legal assistant is assigned to the client. The legal assistant then gets the factual information, medical information, and opens the file. She helps the client with the property damage, the medical pay, and with any problems of a financial nature which the client may be having because of the accident. Most of our clients are from the lower or middle income working classes. For the most part, they are ignorant and uneducated. Such details as getting their car moved from the storage garage where it was towed after the accident, to a repair garage to stop storage charges, getting estimates, renting a car for use and dealing with their collision carrier is beyond their capability.

Handling the "total loss," including obtaining the title from the bank, in cases where the amount owed is larger than current value, and checking with their own company on value, is particularly difficult for most clients. The client is instructed to call the legal assistant rather than the attorney for these matters. The legal assistant then arranges to get the necessary investigation done through our investigation section; orders medical reports, hospital records, and follows up the case with the client until the case is ultimately closed and at all times remains in close contact with the client. Of course, at any time the legal assistant can contact the lawyer for answers, or put the client in touch with the lawyer, when necessary.

3. Administration Section (Yellow)

Here, our Assistant-Office-Manager draws all the pleadings for the entire office, such as filling suit. As you can see in the yellow section, this group works under me, as President of our legal corporation and you can see the number of people working here, and the various jobs they fill, under this chart.

4. Appointment Secretary (Purple)

We have thirteen telephone lines coming into our office and the receptionist screens out all of the "new case calls" and funnels them in to the appointment secretary. She fills out a little form, which gives some background information for the attorney who will ultimately see the client, and then arranges an appointment with the client. Cases which do not fall into our field of specialty are referred to a lawyer. Even in the area of accident cases, if it is obvious there is no claim possible, she screens out such cases.

5. Investigation (Green)

This department is headed by an investigator, with an assistant and one secretary. They receive from the processing section all of the investigation forms detailing the information necessary to be obtained in each case. They handle the investigation and return the completed work to the processing section.

6. Legal Research Section (Pink)

We have one girl, a college graduate, who handles our library and does legal research. She works under an attorney who heads up the Legal Research Section, which handles appeals.

7. Docket

We also have a Docket Clerk, who is in charge of seeing that all cases for the office are set for trial, keeps track of the statute of limitations of all cases. In other words, she gives me a monthly report on all cases in which the statute of limitations will run within a ninety day period.

8. Increase in Quality of Service Through Paralegals

From the information I have already given you, you can see that we are in a position to give far greater service to our clients through the paralegals than a lawyer could possibly hope to, because of the limited amount of time he has available.

I have shown you how this would work in a personal injury practice; however, this system can also be useful to a Firm specializing in real estate, or one involving wills and estates, or actually any field of the Law.

The medical profession has relied on medical technicians for a number of years, and the lawyers have been very slow to follow suit. No one can possibly guess what the cost of medical services might be today if the doctor did everything that a nurse or technician normally does in his office, as most lawyers do. Th reason the lawyer has been slow to avail himself of paralegals is because of:

1. The lack of training of the average secretary in the paralegal field. There is a lack of schools available to train paralegals.

2. Some lawyers are reluctant to shift a lot of the routine work from themselves to a paralegal, being afraid that the paralegal may not do the work as well as possibly they would. We have found that intelligent college graduates with a nice personality can be quickly trained to perform all sorts of paralegal work. They enjoy the responsibility and the challenge.

There is a ready pool of college graduates who are not trained for anything in particular, to go into paralegal work at the present time. The teaching profession is vastly overcrowded and, today, there is a large surplus of college graduates seeking jobs. The last ten people we have hired at our office were all college graduates.

I think there should be some accreditation and licensing of paralegals. This would lend dignity to their profession and guarantee to the lawyer some minimum of training when he employs a paralegal.

There is no question in my mind, but that there is a great need for legal services on the part of the poor and the middle-class that is not being met today because of the high cost of legal services. I think this Committee would be performing a great public service, both for the citizens and the legal profession, in promoting the training and use of paralegals.

PROCESSING A PERSONAL INJURY CASE WITH LEGAL ASSISTANTS

For the past several years, the American bar has been concerned with freeing the lawyer to do more effective legal work through the use of legal assistants. Our firm has been using this approach for approximately twenty years, working constantly to refine our procedures and techniques. The system has developed over this period of time with much trial and error in an attempt to achieve the greatest amount of productivity from our lay personnel as well as our lawyers, in order to keep our legal staff from becoming top-heavy, and to minimize our expenses of operation. In a sense, we are operating on an assembly-line principle but we have managed to retain the essential atmosphere and dignity of a law office.

In an article written several years ago, I outlined the procedures then being used in our offices. Since that time, we have made many changes which we feel lend themselves to a more efficient and expeditious handling of the individual cases. In so doing, we have expanded our personnel by the addition of one lawyer and approximately seven or eight legal assistants. In fact, one department is completely staffed with legal assistants, including the supervisor who reports directly to management.

When an individual calls our office for an appointment, the call is directed to our Investigation Co-ordinator, who gets a limited amount of information on liability and injury and gives the client an appointment to come into the office to be interviewed by one of the attorneys. When a final decision is made by the attorney as to whether or not the case will be accepted, the client is turned over to our Processing Department, where we have five legal assistants working under the guidance of a legal assistant trained as a medical-legal co-ordinator. Most of our legal assistants hold college degrees, and have a depth of understanding which helps them to analyze quickly and competently the merits and problems of each case. Those without degrees have the equivalent experience, education and intelligence, as measured by various tests which we administer. The legal assistants in the Processing Department detail all of the information necessary to the intelligent handling of the client's case and perform all the preliminary work necessary to a complete and detailed work-up of each case. This legal assistant remains with the case until it is finally settled by the assigned trial attorney. From time to time, she checks the file to be sure that certain procedures have been performed; that necessary information has been secured from various government agencies; that medical information is secured periodically, and that the file is in order to be either settled or tried by the assigned trial attorney.

When a case has been accepted by the initial interviewing attorney and turned over to the Processing Department, generally this section will prepare the file and brochure for the case, numbering and cross-indexing the same, secure factual and medical information from the client, and in so doing, will complete a number of forms which we have prepared for that purpose. The legal assistant, under supervision of an attorney, will advise the client on minor problems, handle property claims with appropriate adjusters, take photographs of client for identification and photographs of visible injury. After this initial interview, which usually lasts anywhere from one to three hours, she will complete the file, order all accident reports and medical reports, and give the investigator an assignment sheet, including a brief description of how the accident occurred, names of witnesses, defendant(s), description of vehicles, etc., so that he can complete the investigation. She writes and sends out letters of representation to the defendant insurance company, notifying them of our firm's representation of the client. She also sends out medical pay letters to the client's insurance carrier, notifying that company of the firm's employment and the fact that we will present a medical pay claim within the client's coverage.

After the Intake legal assistant interviews the client and completes the file, it usually takes about 30 days for all papers ordered to reach the file and then the same, in its entirety, is reviewed by our managing law partner who assigns the case to a trial attorney for further handling and negotiation. From that point on and during the entire tenure of the client's case in our files, the initial legal assistant, the assigned trial attorney and his secretary will handle all matters relevant to trial, damage statements, settlement sheets, etc. They are the three people whom the client will call for assistance with problems from time to time. However, a great deal of time is saved during the initial 30 days when the client experiences most of his problems and he can call the legal assistant directly so that the attorney is free to work on more urgent problems presented to him.

Insofar as medical follow-up is concerned, this practice begins also in the Intake Department when the legal assistant completes a very thorough form which is analyzed and appropriate action taken. Thereafter, at regular intervals, the client is contacted for physical statements. When he has been the doctor or has an appointment for a specific date, we are alerted to write for a report at the proper time. This call to the client serves a dual purpose: it keeps him reminded of the importance of keeping his medical appointments and it makes him feel that we are constantly working on his case. Of course, information elicited at this time also alerts us to any new complaints or emergencies which may necessitate action on our part, such as being advised of specialists or hospitalization, of which we had no knowledge, etc., in order that we might elicit appropriate reports.

The Intake assistants also maintain detailed check lists with all necessary form letters and applicable time tables, which prevents them from overlooking any of the many details necessary to a complete workup on the case. We also maintain a very extensive manual, which provides our legal assistants with detailed step-by-step procedures concerning the manner in which a case should be handled from its inception to its final disposition, and our clients are thus assured that essential steps are not overlooked in the press of a busy schedule. This manual is extremely explicit and detailed and insures that the individual working with the case can do so without constantly interrupting others for clarification. It consists of several hundred pages, and a sampling of the index indicates subjects devoted to Firm Policies, General Procedures, Investigation, Filing and Docketing Suits, Damage Statements, Depositions, Jury Lists, Independent Medical, Settlement Procedures, Interrogatories, and many other procedures.

Also, a classification system has been set up by the lawyers whereby the Intake assistants can determine the nature of the case and whether or not that particular case should get the so-called "deluxe" treatment, or a general routine treatment, whether or not investigation should be limited or investigation should only be done where specifically requested. This is very helpful in keeping our expenses to a minimum in a case where the potential recovery is minimal.

We have prepared a little booklet entitled "Your Case and How We Handle It", which is given to each one of our clients by the Investigation secretary, and while she is preparing the file and getting her forms together and putting the necessary routine information on each sheet, the client is given an opportunity to read this booklet and to ask any questions. This pamphlet in simple layman's language, outlines to the client the manner in which his case will be handled by our firm, and he is advised whom to contact in the event of any problem. Over a period of time, we have found that certain questions will arise almost routinely, and we have attempted to answer these in simple and understandable terms. It explains items such as cash expense for which they are responsible; that they will be called from time to time by our legal assistants for up to date information; they are requested to retain all expense records, etc. An explanation is also given as to the functions of the various departments with whom he will deal, such as Investigation, Medical and Trial, and the need for independent depositions, and so forth.

By having legal assistants working in specialized areas, under the direction of lawyers, with explicit written procedures, and a well organized system, we find a minimum of error and much more attention to detail than the average lawyer is able to devote to each and every case. As a means of illustration, I might add that although we handle a volume of personal injury cases per month, each one is thoroughly investigated, prepared, tried, if necessary, and concluded promptly and efficiently with a staff of only 9 lawyers and our contingent of lay personnel.

We believe firmly in the use of organized systems and procedures whereby we maintain a constant system of checks and counter-checks in order to avoid the overlooking of a statute of limitations, a trial date, or any other pending legal appointment. Every case in the office is listed on a Sched-U-Graph Board and a card for every client is placed on this board within 24 hours after the case is received. Each of the names is followed by a list of approximately 30 numbers and each number indicates a certain procedure to be followed, such an interviewing witnesses, police officer, taking photographs, filing, pleadings, etc. When a particular item has been completed, the person so doing places a colored tab over the number, the color indicating the individual assigned to that particular task. If the statute of limitations runs within a 6 month period, a red tab is placed beside the name. This alerts us as to the necessity of filing suit within the prescribed time. The cases on the board which have not been filed are reviewed to determine whether a statute problem has arisen since the last review, and again, if the statute of limitations expiration date is within 6 months, the case is red-flagged. From this board, a list is prepared periodically and given to each of the assigned trial attorneys. This points up immediately where cases have been allowed to lag and alerts the assigned attorney to review that particular case and attempt to bring it to a conclusion.

In addition to a file, we maintain for each client a brochure, wherein is recorded the basic material which the trial lawyer will need for the preparation of a case for court, accident reports, photographs, investigation reports, medical reports, damage statements, loss of earning statements, etc.

If a criminal hearing is to be held, one of the lawyers is alerted and he arranges to attend with a court reporter so that any evidence adduced there will be available to the trial attorney when and if needed.

The Docket Clerk makes arrangements with lawyers throughout the state to attend docket calls and set our cases for trial. To assist her in this, she maintains a docket board in her office where, at a glance, anyone can see when a case is set for trial and to whom it is assigned. She also keeps records indicating all cases set in various jurisdictions of the state.

In general, these procedures were set up on a trial and error basis. In the beginning, we found that many of our forms were becoming too complex and too detailed, and through a system of meetings and consultations, they were reworked and revised until we achieved our present forms which we find to be more or less ideal for our purposes. Of course, as the law changes, we have to make the necessary revisions to make them applicable.

While it is my function to formulate the overall plans for office operation, individual units are given managerial responsibility when it is called for in their specific job. In this connection, many of the procedures and controls in various departments are initiated by the legal assistants working therein, but they are accountable to me for effective operation. However, each feels free to make suggestions for improvement in his department and gives recognition to the individuals working under him.

Our Administrator holds weekly luncheon meetings with all lawyers and members of the Investigation Department and other management personnel, at which time problems that have arisen during the previous week and did not need to be settled on an emergency basis, are discussed and provisions made for like problems to be handled in the future according to a standard procedure. These standards are then incorporated in our Firm Manual.

Also, bi-monthly meetings of all officers and bi-monthly meetings of the Executive Committee are held for the purpose of formulating procedural and financial policy.

As Administrative Manager, with the help of an assistant, (who prepares drafts and processes almost all of the pleadings generated by our nine lawyers), we are responsible for all personnel, accounting, filing, mailroom and preliminary financial budgeting.

From time to time, we also hold meetings of all non-lawyer personnel, where grievances are aired and settled (although not always to everyone's satisfaction), and where new procedures are outlined and explained. Usually, this takes the form of an after-hours dinner meeting, for which the firm picks up the tab.

Perhaps our most challenging management responsibility is that of developing our legal assistants. We try to hire people with an intellectually superior capacity, who will respond to the challenge of a chance to do above average work. We try to enrich their jobs by giving them tasks that call for initiative and responsibility. We have found this program to be extremely successful and our turn-over and absenteeism rate is far less than the national and local averages. We try to provide dignity and challenge to each person's job, to reward and encourage, and to respect the capabilities and contributions of each employee. Lawyers, legal assistants, secretaries and all other personnel treat each other with dignity and respect, and all suggestions are carefully received and evaluated. Each person feels that he is a necessary contributing element to the over-all welfare of the organization.

Our lawyers, of course, make all the legal decisions and set the necessary guidelines. However, the actual step-by-step processing of a case from its inception to its conclusion is dealt with by our legal assistants. We feel very strongly that our method of operation has contributed greatly to the continued growth of our firm and the reputation which we enjoy in the community.

LEGAL ASSISTANTS: A MEANS OF PROVIDING QUALITY LEGAL SERVICES TO THE GENERAL PUBLIC AT A REASONABLE COST

(By Sally Fairbanks Administrative Manager of Allen, Allen, Allen & Allen)

Our law firm, which is located in Richmond, Virginia, with a metropolitan population of approximately 500,000 people, has for almost twenty years strived to constantly upgrade the quality of legal services rendered to its clients, while reducing the cost. As the case volume has multiplied, new attorneys have been employed, but the real increase in office staff has been in the area of paralegal personnel. We now employ nine lawyers and forty-five lay people. Such a five to one ratio is unusual in a law firm but has permitted us to increase tremendously the services we are able to provide for our clients and at the same time significantly lower our costs.

Until fairly recently, we were one of the few firms in the country to employ legal assistants to any great extent. There are a relatively few others like Lee Turner's firm in Kansas and Harris Morgan's firm in Texas, but these practitioners are definitely in the minority, although it is encouraging to see a trend in that direction. The average lawyer, we believe, is now beginning to recognize that if he wishes to render a high quality of service and do so without accelerating his expenses to a degree which is economically untenable both for him and his client, he must inevitably learn to depend more and more on legal assistants to bear the brunt of the myriad details which are a part of most legal cases, to say nothing of the hand holding necessary to make the client feel he is being represented to the best of the law firm's ability.

The professions, in general, are now devising ways to maximize the efforts of the professional man and woman. Certainly, the medical field has provided an example in this area. Paramedical personnel new perform many supportive functions such as taking blood pressures or making preliminary physical examinations. The physician's load is consequently reduced, and he is free to take on the more urgent tasks required of him. In much the same way, paralegal help can help reduce the attorney's burden.

From the economic viewpoint of the individual, most personal injuries occur to a wage earner who can neither afford to miss a pay check or pay for adequate medical and hospital care. Without some form of assistance, such a wage earner will in many instances become a ward of the state. The enactment of financial responsibility laws which reflected society's concern over the destruction wrought by the motor vehicle has led to public liability and property damage insurance coverage on the great majority of motor vehicles. In a serious personal injury case, the plaintiff is generally in no physical condition to make intelligent decisions concerning his claim for some time after an accident. Most often he does not know the nature and extent of his injuries and neither does his doctor. He is certainly in no position to ascertain the true facts as to liability or to negotiate a settlement with an expert. He is usually aware, however, that the hospital, medical and other expenses will begin piling up and that it takes money to pay them, and as time passes and the bills continue to accumulate, the injured party certainly will not be in any better position to effectively negotiate without benefit of counsel. It was this need that gave rise to specialists on the plaintiff's side in personal injury litigation.

Our lawyers, of course, make all legal decisions and set the necessary guidelines in every case that comes into the office. However, the actual step by step processing of a case from its inception to its conclusion is handled by our legal assistants. Clients who come to us are usually those who have just experienced emotional and physical trauma. Many of them have been deprived of their livelihood and their transportation. They are unable to pay their daily bills or purchase food and clothing. A majority are uneducated, underprivileged and unsophisticated. For these reasons, in order to determine the nature and extent of the client's problem and then to assist him in doing something about it, our legal assistants frequently spend five to ten times as much time with him as they would spend if one of you gentlemen were involved in a similar accident.

We undertake to find the client transportation if his car has been so damaged that it is inoperable, and we attempt to obtain the best salvage value for his automobile if it is completely demolished. We call pharmacies and physicians as well as hospital credit departments and request that they wait until the case is concluded before presenting a bill. At that time, if there is any recovery, we will pay from the proceeds the costs of services rendered to the client. Should the client be totally destitute, we contact the welfare department and arrange for him to receive rent payments and food allotments until such time as he is able to return to work. We have had members of our staff take some of our clients to the doctors because they had no money and no means of transportation. If the client has an insurance policy which contains a medical pay provision, we try to collect this money for him so that he may use it for his day to day living expenses. All of these services are furnished to the client by our legal assistants, and no charge is made to the individual.

Our legal assistants will also accompany clients to court, where necessary, and assist them in qualifying as administrators in death cases. In cases where infants are involved either as injured parties or beneficiaries, special steps are taken to aid them in investing their funds and setting up trusts through reliable banks and investment counsellors. Such safeguards prevent the unnecessary depletion of an infant's funds.

The two areas most troublesome to our clients are recovery for property damage and medical payments, both first-party coverages. Insurance companies frequently dispute the value of damaged property and often claim that certain medical treatment was unnecessary. Without legal asisstance, the client would be reduced to accepting any offer the insurance company made in settlement, regardless of the actual value of the property or expenditures made by the client. Our legal assistants spend a great deal of time in securing documented evidence in order to justify the client's claims.

We attempt to give the best advice to every individual who comes into our offices. Sometimes this means explaining to him why we must decline to handle his case. Sometimes it means taking a case when we know we will make no profit. Although this sounds like an unrealistic policy, over a period of years we have found it to be the most profitable one for us. It is true that there are some cases that are not profitable from a monetary standpoint, and yet, these are sometimes the cases which serve to establish precedent so called landmark cases—and over a period of years these precedents help to win many cases which follow. Under our contingent fee system, should a client have no case, he has the benefit of top flight legal assistance while incurring no obligation to pay a legal fee. In any event, if there is any question, we always do a complete investigation of a case when the client comes to see us and determine whether if it is possible to effect a recovery.

Because the legal assistants work so closely with the clients and are so familiar with their problems, they all take a personal interest in them. Frequently memoranda are circulated around the office to determine if we can collect outgrown clothing or other necessaries for needy families. We have legal assistants who periodically contact all of the clients whom we represent to determine how they are recovering and whether or not they are seeing their doctors and taking their medicine. Occasionally, we will find somebody who has stopped taking medication for the simple reason that he cannot afford to buy it. In these instances, we will contact cooperative drugstores and ask them to advance whatever medicines are needed and wait for the recovery at the outcome of the case. This contact serves a dual purpose. It keeps the client from continually telephoning the lawyer to ask how his case is progressing, thus distracting the lawyer when he could be working on more urgent matters. At the same time, it gives the client the feeling that someone in this office is interested in his welfare, and is taking the time to contact him to make sure that he is getting along alright, and to bring him up to date on the status of his case.

Thus our legal assistants help us to meet a great human need at a time when the injured client has no one else to turn to. Investment in good will as well as human relationships is very worthwhile. From a business viewpoint, those we have helped recommend us to friends and relatives. This is a major source of continuing business, since most people do not get hurt a second or third time in automobile or related cases.

From the inception of our specialization in personal injury cases up until the present time, we have charged a one third contingent fee. Because we operate on this basis, we are able to offer our clients immediate assistance with their problems without their having to worry about paying a retainer in advance. This one third contingent fee has never changed, but only because the volume of cases which we handle is so great and because so much of the work is performed by our legal assistants. For example, a lawyer whose charging rate is $50 per hour is limited to eight to ten hours of work per day. At this rate, it is possible that all of his time during this period would be devoted to one matter, if he were working alone. However, the same lawyer, with properly trained legal assistants, can organize the work to be performed on nine or ten matters so that lay personnel can do much of the groundwork, and the attorney can then review each matter. All of this can be done within the same eight or ten hour period. The paralegal aids perform the routine duties and research implicit in the completion of each matter, and the time can be charged at a much lesser rate than that of the supervising lawyer.

If the American Bar Association should endorse the teaching programs of the various paralegal institutes which have sprung up throughout the country and on college campuses, I feel it is most important that the bar, either on a local or national level, should closely supervise such programs to insure that the individuals are getting value received for their efforts and monetary expenditures. It would be best if these programs were made uniform so that a high level of competence on the part of each graduate throughout the country can be assured. Perhaps an examination of the type now given by the National Association of Legal Secretaries for the professional legal secretary's certificate should be administered to all candidates who wish to become legal assistants. A grandfather's clause might be incorporated to include those who have five or more years' experience as legal assistants. This could entail endorsements by local employers or bar associations. However, even in this event, we feel strongly that some type of examination should be administered. Different lawyers require various levels of competence, and those persons not certified through examination might not measure up to the standards required. To insure adequate supervision by bar associations, a system of licensing might be inaugurated. This would also foster a sense of professionalism.

As regards our staff, we constantly strive to upgrade the caliber of our paralegal assistants. We hire people with superior intellectual capacity who will respond to the challenge of an opportunity to do above average work. The tasks we give them call for initiative and responsibility. We try to provide dignity and challenge to each person's job and seek to reward, encourage and respect the capabilities and contributions of each employee. Lawyers, legal assistants, secretaries and all other personnel treat each other with respect, and all suggestions are carefully received and evaluated. Each person feels that he is a valuable contributing element to the overall welfare of the organization. All of our employees from lawyers to mail-room assistants participate in the many fringe benefits which the firm offers such as hospitalization, life insurance, disability insurance, bonuses, and profit-sharing. This overall approach has been extremely successful, and our turnover and absentee rates are far less than the national and local averages. Coincidentally, Mrs. Fairbanks has just completed an article for the September issue of Trial Magazine which lists in great detail the type of work which legal assistants perform in our offices. Although this article is too lengthy for us to discuss in depth, we are attaching a copy hereto in order to illustrate the extent to which legal assistants are being used in our office.

It is interesting to note that because a few of the firms that pioneered the legal assistant concept were primarily personal injury specialists, the misconception spread that only such a practice lent itself readily to the use of paralegal help. Within the last few years, however, such a notion has been largely dispelled. Currently, legal assistants are being employed to aid attorneys in the fields of corporate, tax, and real estate law as well as in other areas. The use of such well trained personnel in the law office will help maintain reasonable legal costs while preserving the quality of work produced. We feel this trend will greatly benefit the average consumer/client, who until now has feared seeking legal advice because of the prohibitive costs. But our ultimate goal is to furnish a necessary service to a strata of society formerly precluded access to legal help because of low income and poor education.

YOUR CASE—AND HOW WE HANDLE IT

(Allen, Allen, Allen & Allen Professional Association, Richmond, Va.)

This booklet was prepared for the client and, as far as he is concerned, we expect him to do certain things on his own behalf, as set forth therein. In actual practice, however, because of the overwhelming number of our clients who are underprivileged, we find that most of these problems must be taken care of by our Legal Assistants. We are now working on a revision of this booklet which, in several respects, is out-dated due to the fact that we have recently made a drastic revision in the manner in which our cases are processed (see copy of Article in "Trial" Magazine, which was written a few weeks ago, and is fairly current).

To our clients: Realizing that this may be your first experience as a plaintiff in a personal injury case, we are setting forth the following in the hope that it may help avoid confusion on your part during the course of your association with us.

This law firm is a professional association organized under laws enacted by the Virginia legislature. In no way does this form of organization affect the ability of the attorneys to give your case personal attention.

We have been specializing in the personal injury field for many years, we have found that no personal injury case is routine, but we have worked out certain procedures that we may follow in each case.

ONE

Your first contact with our office probably will be by telephone, at which time you will be referred to Mr. Wilbur Allen, or if he is not available, to one of the other lawyers in the office.

TWO

When you are able to come in, you will probably see Mr. Wilbur Allen, who is in charge of taking in new cases. He also supervises the investiation department. He will talk with you at some length and if he is of the opinion that it will be to your best interest to continue, he will have you sign a contract of employment.

This contract explains fully the attorneys' fee arrangement you have with this office, which is usually a percentage of the total amount collected.

It will be necessary from time to time for this office to make cash disbursements on your behalf for investigation, preparation for trial, medical reports, court costs, costs of photographs, charges for long distance telephone calls, costs of cab fares for your trips to the doctor (if necessary), and other expenses. According to the Canons of Ethics of the legal profession, a lawyer may advance sums of money to take care of these costs but must look to the client for repayment. This usually is taken care of at the final disposition of the case. In event of recovery, such expenses are repaid in addition to the attorneys' fees. In event there is no recovery, there is no obligation to pay any attorneys' fee, but the client must make reasonable arrangements to repay the sums of money advanced to cover expenses.

The Canons of Ethics of the legal profession are explicit in forbidding any attorneys to make loans or sign notes for a client. Frequently, however, we can persuade creditors to withhold action for collecting bills pending disposition of the case. If you have any financial problems along these lines, please consult us before your situation gets too critical. We may be able to help.

THREE

You will then be interviewed by our Investigation Department. Here detailed information will be obtained from you as to names of parties involved in accident, what you know about how the accident happened, medical information in regard to your injuries, your personal history, etc. We cannot urge you too strongly to be entirely frank and candid in answering all questions! All the information you give us will be confidential. The insurance companies have an index system on a nationwide basis which shows all of the people who have made claims for other injuries. If we don't find out first—the insurance company investigator will! Please confide in us—and let us be the judge of whether or not it can hurt your case.

FOUR

Next you will be referred to our Medical Department headed by Mr. George E. Allen, Jr. Mr. Allen will discuss your injuries with you in detail, get the names of your treating physicians, etc. He will write a letter to each of your physicians and request hospital records and medical reports and all other information from medical sources to evaluate the nature and extent of your injuries. All during your case, the medical Department will be in touch with you from time to time to find out how you are feeling, when you saw your doctors and what your specific complaints are in regard to your injuries.

We have part time workers here who work each night from 5 to 9 p.m. In addition to our regular employees, one of these part time workers may call you at night for a physical statement (questions about your injuries and complaints). If there is any doubt in your mind about the identity of the caller, ask him (or her) if you may call him back, hang up and dial our number.

We wish to emphasize strongly the importance of keeping appointments with your doctors. Periodic reports from your doctors to this office are vital to a proper evaluation of your case.

In addition, Mr. Allen's department will give you certain forms which they will ask you to fill out and return to us periodically. He also wil ask you assistance in notifying his department of any canceled doctors appointments any change in your physical condition and will ask you to save all prescriptions, medicine bottles, etc. and bring them to our office.

FIVE

After the first interview in our office, the investigation department starts its investigation. The investigating police officer will be interviewed, along with all witnesses; reports will be obtained from the Division of Motor Vehicles, and a thorough and exhaustive investigation of the facts will be made. The scene of the accident will be visited, diagrams drawn and pictures taken. After this investigation is completed, it will be decided by the attorneys in the office whether or not we will be able to help you; if a decision is made to accept your case, suit will be filed or negotiations started with the defendant's insurance company. You will be notified by personal contact or by letter if a decision is made that we cannot accept your case.

SIX

When suit is filed (and sometimes before) your case will be assigned to one of the trial attorneys in our office. (See last page of this booklet for list of trial attorneys). If you know one of them personally or have a strong preference, this will be considered when assigning your case to a trial lawyer, but the firm must reserve the right to assign work to the lawyer it selects. He will be in charge of your case from this point on to the conclusion. He will expect cooperation from you in keeping appointments. From time to time he will confer with other members of the firm about your case.

A law suit may be a great inconvenience—there will be times when you will have to be off from work, but you may rest assured that we will arrange appointments as conveniently as possible. Usually the first action the trial attorney takes when a case is assigned to him (after a thorough review of your file) is to contact the defendant's insurance company or the attorney for the company, in an effort to begin negotiations for a settlement out of court. However, before the insurance company or its attorney can negotiate with us, they must be furnished the following information:

Hospital records and reports from all of your treating physicians;

A detailed itemized list of all of the medical expenses and other expenses incurred by you, with substantiating evidence (original bills, receipts, canceled checks, etc.):

A statement from your employer showing how much time has been lost from employment, or loss of salary; An estimate or bill to show the amount of car damage involved.

You can be of invaluable assistance to your attorney by forwarding copies of your medical bills promptly, keeping receipts for payment of such bills, promptly complying with any request for information, and by keeping all appointments that are made for you.

In this connection, when you receive a lettter from this office requesting you to call us, *please note the signature and ask for that person when you call.* This will save your time and ours in trying to locate the person who needs to talk to you.

GENERAL INFORMATION

In most of the local courts (Richmond and adjoining counties) it will be approximately six months to one year from the time suit is filed before your case is actually tried. Even though most cases are settled out of court, this is not usually accomplished until a few days before the trial date. It is important not to settle or try your case too soon, because in many cases the full effect of the injury is not apparent for some time. Whenever any settlement figure is discussed by your attorney and the defense attorney, you will be contacted and the information developed passed on to you.

INDEPENDENT MEDICAL

After suit is filed in your case, the defendant has a right to have you examined by a physician of his choice. The insurance company will pay the cost of this examination and the doctor's report will be sent to the court with copies to us and to the defense attorney. Your lawyer will probably want to talk to you at this office before this examination.

INTERROGATORIES

The defendant has a right to submit written questions through us, as your attorneys, to you about the law suit. These questions are called interrogatories and must be answered under oath. It is extremely important that your answers to these interrogatories be accurate. The trial attorney and his secretary will assist you with the preparation of these answers.

DEPOSITIONS

The defendant has a right to take your deposition or that of any witnesses in the case. (We also have this right.) A deposition means that the defense attorney can question you orally before a stenographer about the accident and injuries. We will be present to assist you. It is important that you present a neat appearance, answer questions truthfully and be brief. Don't volunteer information; don't estimate distances that you are unfamiliar with; and if you don't know the answer, simply say, "I don't know." Your lawyer will go over your testimony with you prior to the deposition.

In the event the case cannot be settled at a fair figure, we will proceed to trial. Before we go to trial, the two or three weeks leading up to the trial date are spent in detailed review and preparation of the case. All of the witnesses are interviewed again; the photographs are enlarged if necessary; conferences are held by the trial attorney with each of the doctors; all of the medical bills and other expenses are brought up to date, and detailed conferences are held with you—the client. What you may expect at trial and what is expected of you will be explained to you in minute detail well in advance of going to court.

We are frequently asked what to do about the property damage to your car. We usually suggested that you handle this with your collision carrier. Your carrier will then make a claim for reimbursement of the property damage against the guilty party. They will collect the property damage in full and return the deductible portion to you. By making the claim against your own collision carrier you will not cause your company to place any points against your policy or in any way affect your good relations with your own company. Also, this will not interfere with our handling of your personal injury claim against the guilty party.

CONCLUSION

It is impossible to call you on the phone every week or so and give you a report on your case or write you a letter that often. When something of importance happens in your case, we will advise you immediately; otherwise, you can be assured that your case is following the normal course of preparation that we have outlined here. But if you have a question or need some advice or are concerned about some aspect of your case, do not hesitate to call the attorney who is handling your case.

We hope this booklet will give you some idea of the way we handle your case and the length of time it will take before your case is concluded.

ALLEN, ALLEN, ALLEN & ALLEN,
Professional Association.

Senator TUNNEY. Our next witness is Frank Dickey, executive director of the National Commission on Accrediting.

The statement of Frank Dickey, executive director of the National Commission on Accrediting.

Mr. DICKEY. Mr. Chairman and members of the subcommittee. First of all, may I express my appreciation for your willingness to adjust the agenda of this hearing so that whatever the scheduling difficulties, they might be resolved.

In the invitation of the subcommittee, it was suggested that the testimony presented by the National Committee on Accrediting might include responses to certain specific questions regarding the paralegal movement in the United States, as it relates to the responsibilities of the National Commission on Accrediting.

I shall brief the statement that I have presented in writing and request that it be made a part of the record.

Senator TUNNEY. Yes; your statement will be incorporated into the record as if read.

STATEMENT OF FRANK G. DICKEY, EXECUTIVE DIRECTOR, NATIONAL COMMISSION ON ACCREDITING

Mr. DICKEY. I shall confine my testimony largely to responding to those specific questions that we raise for two reasons:

First of all, I am not a qualified legal practitioner or legal educator and cannot speak for the legal profession either as to its present or future work force requirements, or specific training for that work force; and

Second, the National Commission on Accrediting is not an advocate of any professional organization, but an agent of some 1,300 accredited postsecondary institutions in helping the institutions to determine the ability and the appropriateness of professional bodies to accredit programs of instruction at the institutions.

Briefly, my responses to the enumerated questions would be as follows:

The first question: what effect, if any, would accreditation of training programs have on developments in the paralegal area?

I think it's important to say that accrediting standards for any program of study should be adapted only after thorough analysis and validation, and should be subjected to continual analysis and review, to insure that they are appropriate, consistent and sound for the purposes for which they are employed.

The policies, procedures and techniques of all accrediting agencies and organizations should be subject to the same analysis validation and review. And this latter is the primary business of the National Commission Accrediting, acting in behalf of the member institutions.

If the paralegal movement in this country has been adequately subjected to all of the foregoing and the proposed minimum standards have been found by the profession, the institutions, and the general public to meet the basic requirements of quality for all three—then we feel the program is probably ready for accreditation.

If, on the other hand, the program of education for this profession is still being experimented with to determine what elements it should contain to produce the best product, then it should not be separately accredited as a professional educational program.

The second question raised was: Should institutions which train paralegals be accredited?

And the answer to this, in our opinion is "Yes." The institutions delivering the education should be regionally accredited, or accredited by one of the agencies recognized by the National Commision on Accrediting or by the U.S. Commissioner of Education.

This is different, however, from saying that the specific program or courses of paralegal training should be separately accredited. Regional accreditation be-peaks to the general public the minimum overall quality of an institution is sound. Specialized or programmatic accreditation usually meets the more stringent requirements of State-imposed or profession-imposed requirements leading to licensure or certification to practice a profession following completion of the program of instruction.

Those institutions of a proprietary nature, which either are not eligible for accreditation through the above-mentioned channels, or who do not choose to seek accreditation, should not be excused from some type of third-party evaluation. In my opinion, it behooves all of us in education to insist that State bodies responsible for authorizing operation of programs of education must be responsible for insuring a minimum of quality in those programs.

A profession itself, in meeting its self-regulation responsibility, should insist that education for that profession—whatever and where offered—be of at least minimum quality.

The third question that was raised is: Who should control accrediation if it is done?

And I would have to say that I think "control" is a pejorative word, and I am not sure this question should be stated with such finality. The total concept of accreditation is based on voluntarism and cooperation. In the case of regional institution-wide accreditation, the responsibility for the process should, without a doubt, lie with the institutions themselves.

For specialized accreditation, in which category paralegal would fall, control is a cooperative responsibility of the institutions and the profession. And the process should have sufficient input from students, faculty, the general public, and other professions and disciplines to insure its quality and its equitableness.

I should also add that, if this question is meant who should be recognized to conduct paralegal accreditation, it becomes an unanswerable question at this time. Thus far, no professional organization has applied to the National Commission on Accrediting formally, to accredit such instructional programs. We have held informal discussions with representatives of the American Bar Association, the National Paralegal Institution, the Office of Economic Opportunity, and the director of one of the paralegal programs at a sizable eastern university.

Of these, only the representatives of the American Bar Association have indicated an intent to file an application from National Commission on Accrediting recognition to accredit legal assistants programs.

I understand the training program proposed for legal assistants might differ somewhat in concept, as well as name, from paralegal education as defined by others; but our organization has not yet investigated these differences.

The next question that was raised is: Is this the proper time to implement such accrediting procedures?

And again, if the proposed programs have been in existence long enough and have been instituted at enough institutions under guidelines cooperatively applied by the institutions. And the products of these programs are meeting the needs of society and the profession as determined by both, then the programs probably are ready to be evaluated via the accrediting mechanism.

On the other hand, if the profession has not reached common agreement on the minimum competencies which should be imparted to students; and, if students enter the programs with false hopes of employability following completion, then the programs should be studied further before forcing them into somewhat more narrow channels of accreditation.

It would seem to the National Commission on Accrediting that a project such as that recently begun by the American Association of Community & Junior Colleges, in which paralegal programs will be instituted at a number of institutions and studied over a 4-year period, is the ideal way to establish both the reliability and validity of a program's components.

Accreditation at the end of such a trial period usually contains far fewer unknowns with their concomitant problems than programs not given sufficient time to develop.

If, however, there is an urgent, present, and increasing need for paralegal personnel, and a several-year delay for testing would create a disservice to the general welfare, both the profession and the institutions would be derelict in not moving rapidly ahead with plans for accredited programs.

Finally, what are the National Commission on Accrediting's plans in this area and by what standards would you make these determinations?

As I've indicated, the question is a moot one at this point because the commission has not been presented a formal application for recognition to accredit or to recognize such programs. If and when such an application is presented, we will follow our stated procedure for all such applications.

First, an ad hoc subcommittee, consisting of five members of the board of commissioners of the National Commission on Accrediting, will be convened to study the application and all written material presented with it. Representatives of the petitioning body will be invited to appear before the subcommittee to present any new material and to answer questions from the reviewing body.

Any official body or private citizen opposing the application may also present written material in advance of the review and also appear at the review hearing. The review body applies stated criteria for recognition in arriving at its recommendations. A copy of the stated criteria is attached and becomes a part of this testimony.

The reviewing subcommittee reaches a consensus and drafts a report of its deliberations, including recommendations to be presented to the full board of the National Commission on Accrediting at his next regular meeting. The recommendations of the review committee may range from full recognition for a 5-year period, which is the maximum for any accredited body recognized by National Commission on Accrediting, to denial of recognition.

Intermediate recommendations may include recognition for any period of time less than 5 years—in yearly increments—with stipulations that certain procedural, operational, or financial changes must be made within the organization during the period of recognition. The published status of the applicant is that of listing with the dates the organization was first recognized by the NCA and the date it was last reviewed.

All agencies recognized by the National Commission on Accrediting must be totally rereviewed at the end of their recognition period with all of the actions applicable for initial recognition applying to the rereview.

The full board of commissioners of the National Commission on Accrediting may accept, modify, or reject the recommendations of the review subcommittee. Applicants for recognition may be present during deliberations by the board of the subcommittee's recommendations. All decisions of the board are without prejudice, and any applicant may appeal a decision as provided for in the bylaws which are attached or may reapply for recognition at the next annual meeting of the board. One-third of the membership of the 30-person board of commissioners changes each year. The current membership of the board of commissioners is attached and made part of this testimony. Presently, there are five unfilled positions on the board.

Mr. Chairman, I hope I have responded as fully as possible to the questions posed in the letter of invitation to appear. If there should be further questions, I would be happy to respond to them. Thank you.

Senator TUNNEY. Well, you did reply very fully. And I appreciate the detail with which you responded to the questions.

[Discussion off the record.]

Senator TUNNEY. Do you have accredited programs where the training is accomplished on the job?

Mr. DICKEY. Actually, Senator, we do not accredit the program ourselves. The National Commission is a coordinating and monitoring body, recognizing the other agencies that do accredit. But there are agencies that are recognized by the National Commission on Accrediting, which do have some programs which encompass certain on-the-job training possibilities. But I know of no accredited program, accredited by any of our recognized agencies, that is totally based on an on-the-job approach.

For example, there are what are known as co-op programs, where you have some studies and some work, and the combination of the two would be accreditable. But, for a total on-the-job program, I do not know of any that are recognized agencies that accredit such programs.

Senator TUNNEY. What role, if any, do you see for the Federal Government, if it seeks to insure that the paraprofessional movement bring down the cost of legal services?

Mr. DICKEY. I think the role of the Federal Government in this probably would, as you've already indicated earlier, be one of providing assistance for individuals who are planning and who are going through the preparation program for legal assistants, or paralegal personnel. And, if the Federal assistance is available to those persons taking such training, obviously, I think there would have to be certain eligibility requirements for the Federal assistance. And, at this point, I think the Federal Government would have a viable and rightful role to play in connection with this.

Other than that, I would have to agree with the previous witness who indicated that probably, as an interested observer more than anything else. But it's only at the point that the Federal assistance is involved.

Senator TUNNEY. Several witnesses today have called for a comprehensive study prior to implementing an accreditation program. Do you favor such a study?

Mr. DICKEY. Yes. I think that is wise to have a sufficient amount of information and background about the variety of programs, variety of courses, of people involved in them—be sure that the accrediting standards are sufficiently broad to cover all of the variety of programs; and also that the programs would then be of real value to the public and the students themselves.

Senator TUNNEY. Who do you think should conduct such a study?

Mr. DICKEY. I think it should be a cooperative effort of the professions involved—the legal profession—perhaps with the American Bar Association, the American Association of Law Schools having some input into the study committee; the paralegal profession itself, the individuals perhaps, through one of the organizations, the National Institute or some other. And I would strongly favor having some lay participation on the committee that would make such a study.

Senator TUNNEY. Isn't such a study presently contemplated—a broad-based study?

Mr. DICKEY. So far as I know, no study has been brought to the point of a sufficient amount of planning for anyone to be able to outline it and know exactly what it might encompass.

Senator TUNNEY. Well, thank you very much, Mr. Dickey. We appreciate your testimony, and thank you for reading your statement so quickly. It was a good statement.

Mr. DICKEY. Thank you.

STATEMENT BY FRANK G. DICKEY, EXECUTIVE DIRECTOR, NATIONAL COMMISSION ON ACCREDITING, BEFORE THE SUBCOMMITTEE ON REPRESENTATION OF CITIZENS INTERESTS OF THE COMMITTEE ON THE JUDICIARY, U.S. SENATE, TUESDAY, JULY 23, 1974, 10 A.M.

Mr. Chairman and members of the subcommittee, my name is Frank G. Dickey and I am the Executive Director of the National Commission on Accrediting, a position which I have held since 1965.

I am presenting testimony on behalf of the Association which I serve as chief executive and at the invitation of the subcommittee chairman. He asked that the testimony include responses to certain specific questions regarding the paralegal movement in the United States as it relates to the responsibilities of the National Commission on Accrediting.

I shall confine my testimony largely to responding to those specific questions for two reasons: 1) I am not a qualified legal practitioner or legal educator and cannot speak for the legal profession either as to its present or future work force requirements or specific training for that work force, and 2) the National Commission on Accrediting is not an advocate of any professional organization but an agent of some 1300 accredited postsecondary institutions in helping the institutions to determine the ability and the appropriateness of professional bodies to accredit programs of instruction at the institutions.

My responses to the enumerated questions are as follows:

1. What effect, if any, would accreditation of training programs have on developments in the paralegal area?

Accreditation, by its inherent nature of being an evaluative process, and evaluation by its nature, indeed by its definition, requiring some entity to measure, must impose minimum standards or criteria as a measuring base. Such minimum criteria, usually promulgated and generally accepted by both educators for and practitioners of a profession, should not prevent nor inhibit innovation and experimentation above a minimum level. But, sometimes they do.

Accrediting standards for any program of study should be adopted only after thorough analysis and validation, and should be subjected to continual analysis and review to ensure that they are appropriate, consistent, and sound for the purposes for which they are employed. The policies, procedures, and techniques of all accrediting agencies and organizations should be subject to the same analysis, validation, and review. The latter is the primary business of the National Commission on Accrediting.

If the paralegal movement in this country has been adequately subjected to all of the foregoing and the proposed minimum standards have been found by the profession, the institutions, and the general public to meet the basic requirements of quality for all three—then the program is probably ready for accreditation. If, on the other hand, the program of education for this profession is still being experimented with to determine what elements it should contain to produce the best product, then it should not be separately accredited as a professional educational program.

2. Should institutions which train paralegals be accredited?

The answer is yes, the institutions delivering the education should be regionally accredited or accredited by one of the agencies recognized by the National Commission on Accrediting or the U.S. Commissioner of Education. This is different from saying that the specific program or courses of paralegal training should be separately accredited, however. Regional accreditation bespeaks to the general public the minimum overall quality of an institution; specialized or programmatic accreditation usually meets the more stringent requirements of state-imposed or profession-imposed requirements leading to licensure or certification to practice a profession following completion of the program of instruction. The absence of state requirements for licensure to practice a profession—a requirement incidentally that should be established solely to protect the public against incompetence and fraud—should be an evaluating principle in recognizing professional organizations to accredit educational programs. Accreditation should not be an exclusive mechanism or requirement for membership into a professional organization or association nor the sole criterion for certification of competence by a profession. Neither the National Commission on Accrediting nor the U.S. Office of Education is absolutely pure in applying this principle but the National Commission on Accrediting has tried to contain the proliferation of specialized accrediting agencies by applying it.

Those institutions of a proprietary nature which either are not eligible for accreditation through the above-mentioned channels, or who do not choose to seek accreditation, should not be excused from some type of third-party evaluation. In my opinion, it behooves all of us in education to insist that state bodies responsible for authorizing operation of programs of education must be responsible for insuring a minimum of quality in those programs. A profession itself, in meeting its self-regulation responsibility, should insist that education for that profession—wherever offered—be of at least minimum quality.

My personal bias, after a lifelong career in education, is that when we are dealing with a human product—which is the totality of education—we who are shaping the product must periodically and voluntarily subject our "dealings" to a peer review and evaluation. Those purporting to practice the art but not willing to do this must then be subject to non-voluntary evaluation by a differently sanctioned body. No one should be allowed to "freelance" with the minds (and, incidentally the funds) of other human beings under the guise of institutionalism.

3. Who should control accreditation if it is done?

"Control" is a pejorative word and I am not sure this question should be stated with such finality. The total concept of accreditation is based on voluntarism and cooperation. In the case of regional, institution-wide accreditation, the responsibility for the process should, without a doubt, lie with the institutions themselves. Institutional accreditation is a profession-oriented (education), peer-group, self-regulating mechanism and has worked marvelously well in American higher education for more than one hundred years. With some updating of policies and procedures which, incidentally, are taking place, and with continued experimentation and validation of new tools for measuring quality, such accreditation still stands as the most viable mechanism for protecting educational consumers in a free society.

As another aside, but substantiating the point just made, other nations now interested in instituting similar accrediting systems and with whose representatives we in NCA have met during the past year include Brazil, Korea, the Philippines, Germany, Canada, and Viet Nam.

For specialized accreditation, into which category paralegal education would fall, "control" is a cooperative responsibility of the institutions and the profession and the process should have sufficient input from students, faculty, the general public, and other professions and disciplines to insure its quality and its equitableness.

If by Question No. 3 is meant who should *be recognized* to conduct paralegal accreditation, it becomes an unanswerable question at his time. Thus far, no professional organization has applied to the National Commission on Accrediting for recognition to accredit such instructional programs. We have held informal discussions with representatives from the American Bar Association, the National Paralegal Institute, the Office of Economic Opportunity, and the director of one of the paralegal programs at a sizeable Eastern university. Of these, only the representative of the American Bar Association have indicated an intent to file an application for NCA recognition to accredit "legal assistants" programs. I understand the training program proposed for legal assistants might differ somewhat in concept as well as name from paralegal education as defined by others but the NCA has not as yet investigated the differences.

4. Is this the proper time to implement such accrediting procedures?

Again, if the proposed programs have been in existence long enough and have been instituted at enough institutions (20-25) under "guidelines" cooperatively applied by the institutions, and the products of these programs are meeting the needs of society and the profession as determined by both, then the programs probably are ready to be evaluated via the accrediting mechanism. Also, if the educational program is a popular one in terms of numbers of students enrolling or wanting to enroll and numerous institutions begin offering the program of instruction without there being any degree of consistency or evaluated quality in the programs, then again accreditation becomes necessary to protect the student from inferior programs and the public from incompetent practitioners.

On other hand, if the profession has not reached common agreement on the minimum competencies which should be imparted to students and students enter the programs with false hopes of employability following completion, then the programs should be studied further before forcing them into the somewhat more narrow channels of accreditation.

It would seem to the National Commission that a project such as that recently begun by the American Association of Community and Junior Colleges in which paralegal programs will be instituted at a number of institutions and studied over a four-year period is the ideal way to establish both the reliability and validity of a program's components. Accreditation at the end of such a trial period usually contains far fewer unknowns with their concomitant problems than programs not given sufficient time to develop.

If, however, there is an urgent present and increasing need for paralegal personnel and a several-year delay for testing would create a disservice to the general welfare, both the profession and the institutions would be derelict in not moving rapidly ahead with plans for accredited programs.

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5. What are the National Commission on Accrediting's plans in this area and by what standards would you make these determinations?

The question is a moot one at this point because the Commission has not been presented a formal application for recognition to accredit such programs. If and when such an application is presented we will follow our stated procedure for all such applications. An ad hoc subcommittee consisting of five members of the Board of Commissioners will be convened to study the application and all written materials presented with it. Representatives of the petitioning body will be invited to appear before this subcommittee to present any new material and to answer questions from the reviewing body. Any official body or private citizen opposing the application may also present written material in advance of the review and also appear at the review hearing. The review body applies stated criteria for recognition in arriving at its recommendations. (A copy of the stated criteria is attached and becomes a part of this testimony.) The reviewing subcommittee reaches a consensus and drafts a report of its deliberations including recommendations to be presented to the full NCA Board of Commissioners at its next regular meeting. The recommendations of the review committee may range from full recognition for a five-year period (maximum for any accrediting body recognized by NCA) to denial of recognition. Intermediate recommendations may include recognition for any period of time less than five years (in yearly increments) with stipulations that certain procedural, operational, or financial changes must be made within the organization during the period of recognition. The published status of the applicant is that of a listing with the dates the organization was first recognized by NCA and the date it was last reviewed. All agencies recognized by NCA must be totally re-reviewed at the end of their recognition period with all of the actions applicable for initial recognition applying to the re-review.

The full NCA Board of Commissioners may accept, modify, or reject the recommendations of the review subcommittee. Applicants for recognition may be present during deliberations by the Board of the subcommittee's recommendations. All decisions of the Board are without prejudice and any applicant may appeal a decision as provided for in the Bylaws (attached) or may reapply for recognition at the next annual meeting of the Board. One-third of the membership of the 30-person Board of Commissioners changes each year. (The current membership of the Board of Commissioners is attached and made a part of this testimony. Presently, there are five unfilled positions on the Board.)

Mr. Chairman and subcommittee members, I hope I have responded fully to the questions posed in the letter of invitation to appear. If there are further questions I shall be happy to respond to them. Thank you.

National Commission on Accrediting

CRITERIA FOR RECOGNIZED ACCREDITING ORGANIZATIONS

The National Commission on Accrediting will recognize only one organization to accredit institutions in a defined geographical area of jurisdiction and one organization to accredit programs of study in any one field of professional specialization. In seeking recognition by the Commission, and in order to maintain recognition, an organization engaged in accrediting will be judged on the following criteria:

1. It is a voluntary, nonprofit agency serving a definite need for accreditation in the field of higher education in which it operates, and which is responsible to, and controlled by, institutions, except in special circumstances, that are—or are adjudged eligible to become—constituent members of the National Commission on Accrediting.

2. In the case of an organization concerned with a particular professional field of study, except in special circumstances, (a) it is engaged in accrediting programs of study offered primarily by institutions which are eligible for membership in one of the regional accrediting associations, (b) it makes continual and reasonable efforts to coordinate its accrediting procedures and information on visits with the several regional accrediting associations, and (c) it limits itself in accrediting to those professional areas with which it is directly concerned and relies on the regional associations to evaluate the general qualities of institutions. Willingness of organizations to communicate and share pertinent information with other accrediting organizations is essential to continued recognition.

3. The organization has an adequate organizational pattern and effective procedures, consistent with the Code of Good Practice in Accrediting in Higher Education, to maintain its operations on a professional basis and to make possible the reevaluation, at fixed intervals, of the various programs of study. Accreditation decisions should be made by groups having an appropriate balance of interests representing the institutional programs, the profession, and the public.

4. The organization has financial resources necessary to maintain accrediting operations in accordance with its published policies and procedures.

5. The organization publicly makes available: (a) current information concerning its criteria or standards for accrediting, (b) reports of its operations, and (c) lists of institutions with accredited programs of study.

6. The organization reviews at regular intervals the criteria by which it evaluates institutional programs of study, in order that the criteria shall both support constructive analysis and emphasize factors of critical importance.

7. The decision making process regarding accreditation should be adequately described, and the appeals procedures should be clearly stated. Both of these processes should be consistent with the Code of Good Practice in Accrediting.

8. The organization provides a means whereby representatives of the National Commission on Accrediting may review and consider with officials of the organization all of its accrediting policies and practices. The recognized organization agrees to file such reports as the National Commission on Accrediting, at its discretion, may require.

9. Except within the stated limits of the Code of Good Practice in Accrediting and items listed under Criterion 5 (above), all data, reports, and actions are confidential information.

10. The professional organization notifies the president of the institution when the organization plans to evaluate a program of study at an institution.

(Adopted April 1, 1967.)

NATIONAL COMMISSION ON ACCREDITING

CODE OF GOOD PRACTICE IN ACCREDITING IN HIGHER EDUCATION

Any organization conducting accrediting activities in higher education should follow the guidelines of the Code of Good Practice. Under this Code, the organization agrees:

(a) to evaluate or visit an institution or program of study only on the express invitation of the president or his officially designated representative, or, when the action is initiated by the organization with respect to an institution already accredited by the organization, with the specific authorization of the president of the institution or his officially designated representative; when an accrediting agency desires to visit and evaluate an accredited institution, failure by that institution to extend an invitation may be interpreted as an indication of lack of interest in a continuation of the accreditation;

(b) to permit the withdrawal of a request for initial accreditation at any time (even after evaluation) prior to final action;

(c) to recognize the right of an institution or program to be appraised in the light of its own stated purposes so long as those purposes demonstrably fall within, and adequately reflect, the definitions of general purpose established by the organization;

(d) to consider a program or programs of study at an institution, including its administration and financing, not on the basis of a single predetermined pattern but rather in relationship to the operation and goals of the entire institution;

(e) to rely upon the regional accreditation for evaluations of general quality of an institution;

(f) to state relevant quality criteria for accreditation with respect to the principle of institutional freedom;

(g) to use only relevant, qualitative and quantitative information in its evaluation process;

(h) to assist and stimulate improvement of the educational effectiveness of an institution, and to this end to be prepared to provide consultative assistance which would be separate from the accrediting process;

(i) to encourage sound educational experimentation and innovations;

(j) so to design questionnaires and forms as not only to obtain information for the visiting examiners but also to stimulate an institution to evaluate itself;

(k) to conduct any evaluation visit to an institution by experienced and qualified examiners under conditions that assure impartial and objective judgment, including representation from the staffs of other institutions offering programs of study in the fields to be accredited;

(l) to avoid appointment of visitors who may not be acceptable to an institution; however, the accrediting agency should have final authority in the formation of committees;

(m) to cooperate with other accrediting agencies so far as possible in scheduling joint visits when an institution so requests;

(n) to provide for adequate consultation during the visit between the team of visitors and the faculty and staff of an institution, including the president or his designated representative;

(o) to provide adequate opportunity for inclusion of students in the interviewing process during accrediting visits;

(p) to provide the president of an institution being evaluated an opportunity to become acquainted withe the factual part of the report prepared by the visiting team, and to comment on its accuracy before final action is taken;

(q) to consider decisions relative to accreditation only after an opportunity has been given to the president to submit comment, as provided in (p), and when the chairman of the visiting team is present or the views of the evaluation team are otherwise adequately represented;

(r) to regard the text of the evaluation report as confidential between an institution and the accrediting agency, with the exception that it may be made available, by the agency which prepared it, only to other recognized accrediting agencies by which the institution has been accredited or whose accreditation it is seeking.

(s) except as privided in (r) to permit an institution to make such disposition of evaluation reports as it desires;

(t) to refrain from conditioning accreditation upon payment of fees for purposes other than membership dues or actual evaluation costs;

(u) to notify an institution as quickly as possible regarding any accreditation decisions;

(v) to revoke accreditation only after advance notice has been given to the president of an institution that such action is contemplated, and the reasons therefor, sufficient to permit timely rejoinder and to provide established procedure for appeal and review.

Adopted April [illegible], 1967

BYLAWS

ARTICLE V

OTHER COMMITTEES

SEC. 1. Such other committees as are necessary or desirable for the operation of this corporation may be appointed by the President with the approval of the Executive Committee, except that a Nominating Committee of three persons shall be appointed each year by the President at least thirty (30) days prior to the annual meeting at which meeting it shall make its nominations to the Board.

SEC. 2. Inasmuch as one of the powers of the Board of Commissioners is that of considering and taking appropriate action on requests for recognition from various accrediting organizations, it is deemed appropriate to provide a procedure for appeal in the event an applying organization should desire to question the decision of the Board. In such an event, a special committee on appeals shall be appointed by the President of the Commission. This committee shall be composed of a representative from the governing board of each of the constituent membership organizations of the Commission, other than members of the Board of the Commission. The President of the Commission shall serve as chairman of this special committee on appeals. Any organization indicating its desire to appeal action of the Board shall present its case, with all supporting evidence, to the Board within sixty (60) days after notification of action by the Board. Publication or public announcement of adverse decisions of the Commissioners shall be withheld until the expiration of the period allotted for appeal. Decisions of the special committee on appeals shall be deemed to be final.

Board of Commissioners—National Commission on Accrediting

(Terms extend through annual meeting of year indicated.)

American Association of Community and Junior Colleges

1975.—George L. Hall*, Executive Director, State Communify College Board, Educational Building, Room 123, 1535 West Jefferson, Pheonix, Arizona 85507.

1976.—Stuart E. Marsee, President, El Camino College, Via Torrance, California 90506.

1977.—Robert H. Parker*, President, Wesley College, Dover, Delaware 19901.

American Association of State Colleges and Universities

1975.—Norman A. Baxter, President, California State University, Fresno, Fresno California 93710.

1976.—James Gemmell, President, Clarion State College, Clarion, Pennsylvania 16214.

1977.—Leo W. Jenkins*, Chancellor, East Carolina University, Greenville, North Carolina 27834.

Association of American Colleges

1975.—Duncan Wimpress*, President, Trinity University, San Antonio, Texas, 78284.

1976.—Charles H. Watts, II, President, Bucknell University, Lewisburg, Pennsylvania 17837.

1977.—Glenn S. Dumke*, Chancellor, The California State University and Colleges, 5670 Wilshire Boulevard, Los Angeles, California 90036.

Association of American Universities

1975.—Duncan Wimpress*, President, Trinity University, San Antonio, Texas, Washington, D.C. 20017.

1976.—John Hubbard*, President, University of Southern California, University Park, Los Angeles, California 90007.

1977.—Charles LeMaistre, Chancellor, University of Texas System, Austin, Texas 78701.

Association of Governing Boards of Universities and Colleges

1975.—Lloyd M. Cofer*, 202 Administration Building, Michigan State University, East Lansing, Michigan 48823.

1976.—John William Pocock, 7910 Woodmont Avenue, Suite 1103, Bethesda, Maryland 20014.

1977.—Alexander M. Bracken, Ball Corporation, 1509 South Macedonia Avenue, Muncie, Indiana 47302.

Association of Urban Universities

1975.—Robert H. Spiro, President, Jacksonville University, Jacksonville, Florida 32211.

1976.—Philip G. Hoffman, President, University of Houston, Houston, Texas 77004.

1977.—Lloyd H. Elliott*, President, The George Washington University, Washington, D.C. 20006.

National Association of State Universities and Land-Grant Colleges

1975.—John C. Weaver, President, University of Wisconsin System, Madison, Wisconsin 53706.

1976.—Willard L. Boyd*, President, University of Iowa, Iowa City, Iowa 52240.

1977.—Bruce Dearing*, Vice Chancellor, State University of New York, Albany, New York 12201.

Federation of Regional Accrediting Commissions of Higher Education

Ex officio.—Jack K. Williams*, President, Texas A&M University, College Station, Texas 77843.

Council of Specialized Accrediting Agencies

1976.—Thomas J. Ginley, Secretary, Council on Dental Education, American Dental Association, 211 East Chicago Avenue, Chicago, Illinois 60611.

1977.—Kenneth G. Picha, Dean, School of Engineering, University of Massachusetts, Amherst, Massachusetts 01002.

1975.—John C. Spores*, Program Specialist, Division of Standards and Accreditation, Council on Social Work Education, 345 East Forty-sixth Street, New York, New York 10017.

Senator Tunney. The next witness will be Prof. Thomas Quinn, chairman of the Committee on Legal Assistants, Association of American Law Schools.

STATEMENT OF THOMAS M. QUINN BEFORE THE SUBCOMMITTEE ON REPRESENTATION OF CITIZEN INTERESTS COMMITTEE ON THE JUDICIARY, U.S. SENATE, JULY 23, 1974

Mr. Quinn. My name is Thomas M. Quinn. I am a member of the New York bar and a professor of law at Fordham University in New York City. I am presently serving as chairman of the Committee on Legal Assistants of the Association of American Law Schools. It is the function of this committee to study, report and make recommendations regarding developments in the paralegal field. It is as chairman of this committee that I have been requested to appear and testify.

At the outset I would note that I do not speak for the Association of American Law Schools. Only the Executive Committee is empowered to speak for the association and to date no official positions have been taken. The Executive Committee, however, has requested that its Committee on Legal Assistants survey developments in the paralegal field and develop a set of guidelines for the association and its member law schools. To this end, a comprehensive report is being prepared by this committee which is now in the final stages of drafting and will be submitted to the Executive Committee and to the deans of the various law schools. To this end, a comprehensive report is being prepared by

In my testimony I shall confine myself to the questions suggested by Senator Tunney in his letter of July 2, 1974, which invited me to testify. I will attempt to reflect the opinions with which my colleagues on the Legal Assistants Committee are in general agreement and which will be articulated later in the final report of that committee.

At the outset let me note one general observation. My committee colleagues strongly support the paralegal development and feel that it holds promise of a wider and more efficient distribution of legal services. To this end the committee will encourage both the Association of American Law Schools and the individual law schools to lend their influence and assistance to this new and important development in the law.

On the specific issue of accreditation, the first of the four issues suggested by Senator Tunney, the prime concern of our committee is that the training of paralegals remain flexible. If there were one dominating concern of the committee, it was that. Flexibility is needed to accommodate to the wide variety in types of paralegals to be trained and to accommodate to different pedagogical approaches that may be employed. There have been short term intensive training programs, continuing legal education type training programs, a variety of on-the-job training programs and a large number of degree oriented 2-year programs at the junior colleges, to name but a few.

There are those who favor the training of a legal generalist with the curriculum oriented to basic training in a variety of legal subjects with a view to turning out a highly adaptable paralegal. And there are those who favor the concentration of training on the delivery of one or two very highly specialized and very precise skills. Among those favoring specialization, in turn, there are a variety of quite different approaches. Some focus on one area of the law, such as bankruptcy or the corporate business structure, while others focus on the development of particular skills, such as interviewing or court calendar control.

Also, there are different definitions of the role of the paralegal in the delivery of legal services. Some, for example, see the paralegal strictly as a support person for the lawyer with little or no client contact, while others see the paralegal as the point of first contact, while others see the paralegal as the point of first contact with the client.

The result is a variety of approaches to the problem of training the paralegal, depending on the objectives and sometimes the philosophy of the trainer. In view of the embryonic nature of the paralegal profession this variety of approaches seems healthy and should be encouraged.

Accreditation, unfortunately, is a two-edge sword. On the positive side is the fact that it recognizes the paralegal as professional and that it acknowledges that an accredited program has value and is reasonably related to the tasks that will confront the paralegal later. Whether these assurances are grounded in fact presents a problem, to be sure, but where they are validated, accreditation does serve an important purpose.

On the negative side is the fact that the accrediting process runs the risk of fixing the lines of development within the field in an overly rigid manner. Thus, in an effort to secure the benefits of accreditation, a paralegal program may forego innovative strategies and training programs.

In the light of this, it is perhaps premature to consider establishing formal accreditation programs at this time. The paralegal development is still too recent and still too tentative to introduce factors that might reduce the flexibility so necessary to a healthy development. The American Bar Association in August 1973, promulgated the guidelines for the approval of legal assistant training programs. These guidelines are expressly designed to cover only one tye of paralegal training program—that is, the 2-year, full-time, postsecondary program. Moreover, they are designated as guidelines and do not purport to be accreditation rules. Yet these guidelines have had, in my judgment, a profoundly directive influence, with the result that the bulk of paralegal training is now taking the form of 2-year training programs in junior colleges. Whether this is a good thing or not is subject to some dispute.

I am not prepared to enter that dispute but it does seem important to recognize the fact that even the best intentioned efforts to accredit one type of program cast something of a pall on other unaccredited programs—a result which is doubly unfortunate where there is no clear consensus on how paralegals are best instructed and where the situation requires a great deal of flexibility.

When accrediting becomes appropriate, we believe that the accrediting agency should contain representatives of all the constituencies involved: the bar for one, paralegals for another, the public, and legal educators. To this end, the committee will recommend to the Executive Committee of the Association of American Law Schools that it lend its influence to the establishing of a broad based paralegal accrediting organization.

On Senator Tunney's second question regarding the law school's role in the training of paralegals, I would make two points.

The first goes to the question of whether the law schools should themselves directly train paralegals. On this, the consensus at present would seem to be that they should not. There has been no strong movement of the law schools into the direct training area, regardless of the form that training may take.

Some few law schools have been active in this field, to be sure, but their efforts have been of an experimental nature and as yet have found no strong resonances in the law school community. My general assessment of the situation is that the law schools are not eager to undertake the direct training of paralegals, at least at this time.

My second point goes to the question of how the law schools should relate to those other agencies and individuals who are assuming the burden of the training of paralegals. Here there is little doubt that the law schools have an important role to play. On this point the committee will suggest that the law schools and their faculties:

1. Assist these agencies in dealing with the bar and other public agencies in the area of the law school.

2. Encourage members to serve on advisory committees of these agencies.

3. Assist in curriculum development, research and in the direct teaching of paralegals at these agencies.

4. Monitor and contribute to legislative developments in the paralegal area.

5. Open the law school facilities, especially the library, to paralegals.

6. Where feasible, incorporate the paralegals into existing clinical training programs at the law schools.

Senator Tunney's third inquiry goes to the role of the law schools in training lawyers to work with paralegals.

There is little doubt that the law schools have serious responsibilities in this area, which can only increase with the growth and acceptance of paralegals as part of the law office team. How this obligation is to be discharged, however, is not so easy.

A first step is to inform faculty and students of developments in the paralegal field.

A second step will be to suggest, where feasible, the incorporation of paralegals into the law school's clinical programs with a view to teaching law students and paralegals how to work together in the context of a working law office situation.

A third step will be to suggest to law faculty members, teaching in areas where there is recognized use for paralegals, to incorporate into their course instruction on the uses of paralegals.

Beyond this, the committtee will suggest the formation of an agency within the Association of American Law Schools designed to advise the law schools and the executive committee of the association, on a continuing basis, in this area and to serve as a clearinghouse for the exchange of information. It is hoped that this will serve to inform, encourage, and suggest approaches for the better instruction of faculty and students on how to best work with paralegals.

Senator Tunney's fourth and final question goes to the issue of how developments in the paralegal field should be coordinated.

If coordination is understood not in the limited sense of voluntary cooperation but means to connote a power to direct developments in the field, our committee has not discussed this as a possible development. I assume that members of my committee would be opposed to this type of nonvoluntary coordination, since it would have the inevitable effect of introducing rigidities into the paralegal field where flexibility is considered to be of the utmost importance to a healthy development.

However, if by coordination is meant simply communication and cooperation on a voluntary basis between those involved in paralegal developments, few would deny either its value or its current need.

How this is to be accomplished is the hard problem. Our committee has not addressed itself to this problem beyond the suggestion that the association's executive committee seek out and work with those agencies involved in the movement to provide accreditation in this field with a view to assuring broad based representation of all constituencies in the accreditation process. However, I have little doubt that the committee which I chair and the AALS itself would welcome efforts leading to the better and voluntary coordination of efforts.

What has agitated the committee has been the need for coordination on the level of the various law schools. To this end the committee will suggest the formation of a permanent and funded agency within the Association of American Law Schools to coordinate individual efforts. It will also suggest that each law school designate a faculty member to serve in a liaison capacity with the central committee. It is hoped that this mechanism will open lines of communication and cooperation within the law school community, which is something that is largely lacking at the present time

Thank you.

Senator TUNNEY. Thank you, Mr. Quinn.

The hearing will be adjourned.

[Hearing adjourned at 1:35 p.m.]

APPENDIX

OFFICE OF ECONOMIC OPPORTUNITY,
EXECUTIVE OFFICE OF THE PRESIDENT,
Washington, D.C., July 18, 1974.

Hon. JOHN V. TUNNEY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR TUNNEY: The statement below is in answer to your request of July 3 that the Office of Economic Opportunity submit a written statement on its experience with the use of paralegals in the delivery of legal services and its views on the accreditation of training programs and licensing of paralegals.

The Office of Legal Services of OEO utilizes the skills and services of over 1100 paralegals including VISTA and other volunteers in the delivery of legal services to the poor. Under the supervision of an attorney, paralegal personnel perform a wide variety of job functions including outreach, particularly to the elderly, intake interviewing, legal research, investigation, preliminary negotiation and hearing advocacy before administrative proceedings where lay representation is permitted.

Because of the increase in the demand for services without a matching addition of resources, local legal services offices have increasingly turned to the use of paralegals for assistance in handling routinized legal services such as in bankruptcy and family separation cases and have placed greater reliance on a systemized approach which makes use of standardized forms. Both training and supervision of paralegals are structured to this approach. As a result of this experimentation, the number of paralegals has doubled in the past two years.

In addition to providing more services without higher costs, the increased use of paralegals has had additional important effects. It has provided for better rapport between the attorneys and the client community.

There is a shortage of minority and of bilingual attorneys. As sensitive as they are to the problems of clients created by their poverty, nevertheless, it is sometimes difficult for clients to relate to attorneys who do not speak the language or come from the same backgrounds. Paralegals who come from the community and have more time to spend with clients are often able to establish an empathy and trust which increases both the effectiveness of the lawyer and client satisfaction. A constant problem faced by legal services programs is the turn-over of attorneys. Paralegals serve to ameliorate this problem by relieving the attorneys of much of the routinized non-legal work and thus prevent loss of attorneys caused by overwork. Because paralegals stay longer than attorneys they also provide much needed continuity to programs.

Since the development of the paralegal movement is such a recent phenomenon, it appears that both the accreditation of training programs and/or the licensing of paralegals may be premature at this time. While it is necessary to prevent the development of fly-by-night institutions which falsely hold out promises of jobs for their trainees and to protect the public from the unauthorized practice of law, it is equally important that any action taken will not be so rigid as to discourage experimentation by responsible legal services programs and others just at a time when traditional views of delivering legal services in both the public and private sectors are being reevaluated. Legal Services is still in the process of testing and evaluating training programs which will best meet its needs. Since economy of limited resources is essential, the focus of training has been to provide the necessary substantive knowledge and skills in very specialized areas. Rigid standardization which colud result from accreditation could impose on both programs and paralegals additional requirements that are irrelevant to the delivery of quality legal services, and retard needed additional experimentation.

We feel, for example, that there has been insufficient testing of on-the-job training under close attorney supervision accompanied by intensive skills training related to specific needs of the job as contrasted with academic training. Our primary concern has been with maintaining necessary supervision of paralegals, with clear delineation of areas where a paralegal may function without attorney review as distinct from situations in which a paralegal can exercise discretion.

We are finding that a work situation in which consultation by paralegals with an attorney is a normal and routine occurrence is often more important than training programs divorced from a work situation.

With the impending creation of the new Legal Services Corporation, any decision on accreditation should be left until it has had an opportunity to examine the problem and make recommendations since it will be a major user of paralegal services.

If either an accrediting or licensing body is created it should be as broadly representative as possible of those with interests involved. The Community Action experience of maximum participation of all elements of the community in attacking problems and achieving goals for the poor has demonstrated the viability of the participation concept as evidenced by its adoption in other areas such as education and health. A body with accrediting authority for paralegals should, at the least have representatives from the paralegals, consumers of services such as religious and charitable organizations and unions, educators, and attorneys from both the public and private sectors. Any action on this question should also be reserved until the Corporation has had an opportunity to review the issue and make its views known.

If this office can be of further help, please let me know.

Sincerely,

ALVIN J. ARNETT,
Director.

PAUL D. CARRINGTON,
UNIVERSITY OF DENVER,
June 9, 1974.

I have been asked to speak about law school curricula and paraprofessionalism. I hope that you will indulge me if I enlarge the topic to include not only all law school programs, but others elsewhere in higher education. I suppose that this reveals a flaw in my professional competence. I am minded of T. R. Powell's observation that a lawyer is someone who can think of something that is inextricably related to something else without thinking about the something else. Try as I might, I have not been able to think about law schools without thinking about universities and colleges.

In thinking about the role of higher education in the development of paraprofessionalism, I would first urge the importance of an appropriate modesty about what we can expect to achieve. It is, of course, very American to suppose that social problems, especially those involving social justice, will yield to an educational solution. But we do seem to be learning otherwise in recent years. It is increasingly apparent to all of us that we don't really know very much about learning or teaching. For example, we don't really know how to teach all children to read. Most of them do learn, but increasing the number who do is easier said than done. It would be paradoxical if, as we attain some modesty in our expectations for primary education, we should launch new and unfounded expectations for the even more mysterious processes of higher education.

Indeed, I would suggest that some of the travail of colleges and universities in the last decade has been caused, in some small part at least, by excessive claims for higher education. Perhaps there is some poetry in the fact that Clark Kerr, the leading exponent of the all-purpose multiversity, was one of the first casualties of the turmoil. If we are to profit from his experience, we should exercise some care in proclaiming high expectations as to the ability of higher education to restructure the system for the delivery of legal services.

I believe that it will be helpful to our perspective on paraprofessionalism in higher education to consider first the experience we have had with legal professionalism in the universities. A candid, long-viewed appraisal of the last century of legal professionalism will suggest, I submit, some of the reasons why we should not be too sanguine about the possibility of using higher education to promote a benign paraprofessionalism. I hope that what I have to say will not be taken as a proclamation that law schools and those who made them are malign. But I am about to suggest that all that has occurred in legal education in the last century is not necessarily in the public interest.

In order to tote up the costs and benefits of formal legal education as we now know it, it is necessary to contrast two alternatives which have been tried in this country and elsewhere. The direct method of providing for legal services is simply to allow anyone to perform any service he wants for whatever price he can command without regard to training. This was characteristic of frontier America, at least in some places. It was the method, I believe, that was generally favored by the Populists, and had the force of constitutional law in Indiana as recently as 193[illegible]. It is today the method favored in China, except that such lay advocates are not usually paid. It is un-Chinese now, as during the dynasties, to intercede with officials for pay. While we Americans, committed as we are to the free market system, tend to be shocked by this approach, it is not all bad. It is cheap, it tends to keep the legal system simple, and to reduce the amount of social strife. I need not dwell on its disadvantages.

A second alternative to professional higher education is the more familiar apprentice system. Brother Pincus and his minions, and many others are now striving to restore some elements of the apprentice system to legal education as we know it, and they may be making modest headway. Apprenticeship was probably a fairly effective means of assuring minimal quality of services, and was cheap in the extent to which it permitted training with less foregone income. Again, I will not dwell on its limitations, which are quite well known.

Early American University legal education was not organized with the purpose of displacing these alternatives. Early legal education here, as elsewhere in most of the world, was general education. Thomas Jefferson was the most effective exponent in the early nineteenth century of law as a liberal art. While it was certainly in Jefferson's mind that rigorous university training might lay a foundation for good governance and wise judgment by the political leaders of the society, he did not contemplate a narrow careerism for his university students, nor did he suppose that such high quality general education would be required of all who participate in the delivery of legal services.

The idea of professionalized university training in law really took root at Harvard in mid-century and did not gain a firm hold until about one hundred years ago. The problem that we are here examining today is, in a sense, the result of the tremendous success in the marketplace of the concept of academic professional credentials which emerged from that marriage of professionalism and higher education. The idea has grown steadily in two directions. First, university training in law has grown to require a commitment of seven academic years. Second, it has grown to become pre-emptive; the commitment is required of virtually all of those who provide professional legal services. The reason that this expansion has occurred, almost inexorably, has been that it was to the mutual advantage of all the professionals involved, socially, economically, psychologically, and politically. But has it been, as we have hoped, beneficial to the public?

There are certainly some apparent disadvantages. One is that by increasing the status and income expectations of the professionals, we have probably helped to increase the cost of their services. At the same time, we have had the unintended effect of screening out of the system the offspring of the poor and disadvantaged. This may have had some significant social and economic consequences with regard to the social mobility of some segments of the society, and it has probably been politically disadvantageous in creating a shortage of qualified voices to speak for the disadvantaged groups in the corridors of power. We are, of course, now striving to make some corrections in this regard by means of so-called "special admission" programs. But, desirable and necessary as these programs are, they are a source of understandable indignation, and their necessity is an unfortunate consequence of the close relation between higher education and legal professionalism.

Another kind of cost of professionalism in higher education is the impact on general education. This is speculative. But I think that few would deny that there is some tension between general education and specific professional goals. There is an unfortunate tendency of professional schools to discount the worth of other disciplines and law schools have, at times, almost consciously and deliberately advanced the idea that the humanistic concerns of the liberal arts have little or no place in professional work. In this way, we may actually have reduced the benign effect of widespread higher education on our courts and public institutions. Particularly insofar as we have advanced and promoted the myth that law is the queen discipline and lawyers omnicompetent to solve public issues without regard for the learning of others, we have done harm.

At the same time, however, it is possible that the elements of general education which have survived the professionalization of law have caused a different kind of harm to our students' clients. There is now some data and some literature which tend to confirm that elite higher education can induce delusions of grandeur which unfits those who have experienced it from performing much of the world's work. Overtraining can, in short, produce job dissatisfaction, which leads to sloppy work. It is at least possible that some of the recent protests of judges about the quality of trial practice in the United States is owing, if it is based in fact, to this phenomenon. For myself, I have no doubt that general education and special education can be reconciled. Indeed, Karl Llewelyn has taught us that this is the goal of legal education. But, I confess, it is a goal that it is difficult to achieve and we have not always achieved it.

Against these costs of connecting legal professionalism with higher education, what benefits can we weigh? They are imponderable, to say the least. Perhaps our government has improved significantly, or perhaps it is significantly better than it would be were it not for the professional law schools. More questionably, perhaps the quality of services delivered to individual clients may have been improved as a result of professional university training. But this would be impossible to demonstrate. We are essentially in the same position as the medical profession, although ours is less embarrassing. The fact embarrassing to university medical education is that, despite the vast investments of money and professional time invested in it, its quality does not seem to result in noticably improved public health.

The medical analogue is frequently used in these discussions, and I think that the fact which I have just stated bears a little illumination. It does seem to be true that most of what can be done to lengthen life, reduce morbidity, and improve health, are things which public health officials do, not things which private physicians do. Cleaning up the water supply is at least half of what we know how to do that helps. European countries tend to spend significantly less on medical education and some of them, I believe, really do the job of training doctors on the cheap. But they seem to get just about the same results as far as longevity or morbidity is concerned.

Indeed, to be harsh, one might say that American medical education has been a public disaster. Higher education in professional medicine has contributed to an appalling increase in the cost of health care. We have also created expectations of income, and actual professional incomes, which have had a dehumanizing effect, our doctors now tend to be entrepreneurs and executives, many of whom have lost much of their capacity for human relationships with the sick. Indeed, we can observe the phenomenon that economists describe as reverse elasticity: doctors are paid so well that they work shorter hours and provide fewer services than they would if the rewards were less handsome. And so many of our needs are left to be filled by imported doctors, trained at the expense of the governments of underdeveloped countries, who have very limited capacity to relate to the poorer Americans who are left to their care. Efforts are being made to correct some of these consequences by reducing the cost and length of medical training and increasing the number of doctors. But meanwhile I would proclaim a moratorium on talk that holds up medical professional education as some kind of a model to be pursued for law.

It is with these thoughts about professionalism in higher education that I turn to the consideration of the possible future of paraprofessionalism in the same precincts. Let me begin by listing several reasons, based on the experience just described, which suggest that higher education should stay away from paraprofessional training. I will then suggest some contrary reasons and describe one program which I have helped to design which, in my judgment, offers substantial promise of being useful.

My first reason for not engaging colleges and universities in the development of paraprofessionalism is that the proposed benefit to the public in the improved availability of legal services is too speculative. The degree of uncertainty varies with the particular kind of training contemplated, but there are two general observations about the supposed benefits which can be made.

One is that the increase in the supply of available services may not reduce the price significantly unless there is a free market at work. It is far from clear that the market for legal services is a free market. Indeed, to the extent that the consumers of legal services are paying for the status of the professionals, the force of market competition is largely neutralized by the invulnerability of a semi-monopolistic elite. In other words, the economic benefit conferred would not accrue so much to the clients, but would accrue in larger measure to the elite of the bar, who would be enabled to cut their production costs without reducing the price. Something like this may have happened in the limited or controlled market for medical services. Improved higher education for medical paraprofessionals does not appear to have notably diminished the cost or improved the quality of medical services, as much as it may have enhanced the incomes of doctors. In short, there is a danger that universities would be granting, from their scarce resources, a subsidy to prosperous law firms.

A second general observation is that a reduction in the price of legal services, if it were attainable, is a questionable goal for institutions of higher education. It is, after all, not the kind of goal that most such institutions were created to solve. Perhaps the opportunity to contribute to the solution of such a problem imposes an obligation on us to do so if we can. But at least we are obliged to ask whether this is the best use of public or private charitable resources. The AALS Study assumed, as most of us here do, that the availability of legal services is a high priority. But full candor would require us to acknowledge that reasonable observers can doubt the goal. Thus, one might ask whether the clients who are intended to benefit from the expenditure by getting cheaper service would not prefer to receive their share of the money invested in the form of cash in hand. It really is a little glib of us to assume that the widespread availability of cheap legal services would, like the gentle spring rain, bring a flowering of social justice and human satisfaction everywhere.

Let me reinforce this question or concern about the goal by referring to what seems to me to be a quite interesting comparison between the very similar functions of the Social Security Administration and the Veterans Administration. Both of those agencies administer disability programs which are almost identical in their substantive legal provisions. But Social Security proceeds with a high level of professionalism; there are many lawyers in the agency and many more who appear to represent clients. The V.A. on the other hand, is highly amateurish. There is little or no judicial review, little or no due process, and no professional representation. Such advocacy as there is is practiced by representatives of the American Legion or the V.F.W. who generally have no training at all, and their advocacy is entirely informal and off the record. Which of these systems is better for the clientele? I admit that I don't know for sure. Surely some clients benefit substantially from the kind of representation they receive in social security and attain benefits that some bureaucrat would otherwise deny. On the other hand, this costs money which might otherwise be distributed in the form of slightly higher benefits for all. And it is at least possible that the social security claimants who leave the field of litigation with hard-won benefits are more alienated by the impact of the adversary proceeding than are the veterans who are rather arbitrarily denied any benefits at all. At any rate, it is not clearly productive of human happiness to urge each disability claimant to fight for every last cent of benefit to which he may be entitled. Anyone experienced in litigation would agree that most litigants lose, in the sense that any benefit they obtain in the form of a favorable judgment is more than offset by the cost in money, time, and ego involvement.

To the extent that the paraprofessional movement proceeds from the assumption that all advocacy is good, it is at the polar extreme from the ancient Chinese philosophy, which is not altogether lacking in wisdom. In dealing with questions like the one that is before us today, the Kianghsi Emperor expressed the oriental view thus:

> "Lawsuits would tend to increase to a frightful amount, if people were not afraid of the tribunals, and if they felt confident of always finding in them ready and perfect justice. A man is apt to delude himself concerning his own interests, contests would then be interminable, and the half of the Empire would not suffice to settle the lawsuits of the other half. I desire, therefore, that those who have recourse to the tribunals should be treated without any pity, and in such a manner that they shall be disgusted with law, and tremble to appear before a magistrate."

The good subjects, the Emperor said, would settle any difficulties between them like brothers by referring them to an elder. As for those who are troublesome, obstinate and quarrelsome, let them be ruined by the law courts—that is the justice that is due them.

Doubtless the Emperor would reject the idea of flooding the world with trained advocates, and, I suggest, he would not be entirely wrong to do so.

A second concern which universities and colleges might share is a negative of the first. If we were to enjoy substantial success in driving down the price of legal services, this would tend to undermine the economic position of our law school graduates. Particularly for universities with law schools this would be a troublesome biting of the feeding hand. But even with those who are not troubled by loyalty to their own offspring might take pause to consider the consequences of economic insecurity for a large segment of the bar. One consequence would be to place even greater strain on professional standards of behavior. For those who have not read Jerome Carlin's little book about Lawyers On Their Own, I commend its insight into the relationship between income and ethics. The problem is not one to be wholly ignored.

A third reason for contending that universities and colleges should not involve themselves in paraprofessionalism is also related to the first in that it bears on the financial cost of the training. In the foregoing discussion, I have expressed what might be described as macroeconomic concerns about the allocation of public resources. But there are also microeconomic concerns about the impact of formal paraprofessional training on the family budgets of prospective paraprofessionals. Formal training is costly, especially if the trainee is in residence and is foregoing income. To the extent of these costs, there is a deterrence to entry into such work. This deterrence will not be equally effective on all classes of citizens. The offspring of the poor will be more deterred than the offspring of the middle class. Thus, there would be a tendency, demonstrated by our experience with professional education, for formal training to make the paraprofessions more a preserve of the middle class. There would be a brake on social mobility. A trend toward increased cost of access, credentialization, and middle class homogeneity, once set in motion, may have some tendency to accelerate. Experience predicts that any identifiable group of paraprofessionals that may emerge will clamor for ever higher levels of protection in the form of increased academic credentials requirements. There is little in our experience to suggest that the creation of such requirements will serve the interests of the public at large.

A fourth reason for possible opposition to the involvement of higher education in the development of legal paraprofessionalism pertains to the interaction between the institutions and the particular educational tasks which may be involved in developing paraprofessionalism. Simply stated, university training may be somewhat counterproductive.

The dominant goal of many institutions of higher education, including most of those which maintain professional law schools, is to maintain an environment which is supportive of inquiry. The idea of general higher education is that young adults can advance their maturity and increase their capacity to lead gratifying lives by pursuing their curiosities, developing their sense of wonder, and enhancing the rigor of their thinking. This idea is simply not compatible with a very narrow careerism, which serves the students' urge to acquire saleable skills by the most effective and economic means possible. To be sure, as I have noted, some professional schools have enjoyed limited success in bridging the chasm between general and applied education.

A major consequence of our inability to achieve greater success is that much of the socialization that occurs in the university setting does not relate to the training needs. In part, this is only a harmless expense. But, as suggested by our experience, it may be harmful in producing job dissatisfaction and bad work. It is reasonable to feel this concern more sharply with regard to less demanding paraprofessional work. Thus, I would suppose that it would be a bad idea to train auto assembly line workers in a university. Not only would it be unduly expensive, but our graduates would not be likely to be very good assembly line workers when we were done with them. Indeed, not only would they not be improved in their work by reason of their exposure to the university environment, but they probably would not receive a very effective dose of the liberal arts tradition, either. At the least, it would be a very great challenge to the teachers to present the human experience through the prism of assembly line training. With more particular regard for legal paraprofessionalism, William Statsky has noted that the tendency of law schools to insist on the notion that there are few final answers to qeustions about law may be prone to unfit their graduates, at whatever level, orf the perorfmance of rote legal tasks.

Related to this fourth concern is a fifth which also emerges from the awkward relationship between the goals of much higher education and the career goals of prospective paraprofessionals. This has to do with the status of the paraprofessional students and their relationship to professional students, professionals, and others in the emerging social hierarchy. On the one hand, as the Columbia experience demonstrates, there can be serious morale problems for the students, who may not accept the lines of class and status cheerfully. And, on the other hand, it may be difficult for the college or university to staff a program of paraprofessional training with individuals who are prepared to participate in the scholarly enterprise as academic peers. This is a problem that would be likely to grow over time as the novelty of the paraprofessional program declines.

Finally, permit me to express a sixth concern about paraprofessionalism which is quite unrelated to the others. It is a concern that is not exclusively identified with the role of higher education, but it is a concern to which institutions of higher education should be especially keen. It is at least possible that the evolution of paraprofessionalism will tend to dehumanize our legal system and our public institution. It is certainly possible reasonably to believe that this has happened to medicine. And I personally look with much suspicion at the increased use of para-judges in our courts, and the delegation of judicial duties. Our judges are finding it increasingly congenial to delegate the dirty work (dare we say the real work?) of judging, as they acquire more the role of executives who marshall their staff resources. I fear that we may be losing something important in this development. And there could be some similar fear about the analogous development in law offices. I am not expressing merely the fear of dehumanizing client relations.

The greater danger may be that we are dehumanizing the work. Not only is there a threat to the dignity of the paraprofessional, but we should wonder about the professional wisdom and judgment of the class of super-professionals who will never soil their hands or strain their tempers with the drudgery of routine, who think no thoughts but great ones. There is some truth, I suspect, in some assertions unearthed for us by Lester Brickman. He found the words of Thomas Jefferson's mentor, George Wythe that "It is only by drudgery that the exactness, accuracy, and closeness of thought so necessary for a food lawyer are engendered." And the words of Abraham Lincoln that "If anyone shall claim an exemption from the drudgery of the law, his case is a failure in advance." There is more than romance in the idea that the architect should also lay at least some of the brick. However much we architects might prefer to avoid such tediums, they are an important contact with the human condition, an important reality therapy, if you will. This is, to be sure, not an argument against the MTST typewriter, or other efficiencies in work assignments. But it is a question, an important question about the propriety of humanistic institutions embarking on courses of training which are designed to produce tight hierarchies in work. There are perhaps hierarchies enough without our deliberately trying to make more.

All of these concerns are real ones, I believe. Together they make quite a strong case against a broad-guage, unselective effort by higher education to promote legal paraprofessionalism. But most of these concerns or objections are not applicable with equal force to all forms of training for paraprofessionalism.

Thus, many of them are inapplicable to programs of training in what the AALS Study described as "allied professions," being those activities or services which are legal in character, but not conducted under the supervision of lawyers. In helping to develop such new professions, the institutions of higher education would be in less danger of subsidizing the rich. They would be in less danger of restricting access to work by establishing new credentials requirements where at present there are none. And they would be in less danger of creating new hierarchies of work and new servant classes. While the strain between general and specific education would not and cannot be avoided, it is minimized, at least, where the trainee aspires to work on his own, or at least to acquire the capacity to work on his own, without the direct supervision and narrow role definition which that supervision implies. Moreover, there is a more realistic chance that new professions may actually compete in price with lawyers or perform services that lawyers do not now perform at all. Thus new professions are a more promising means to increase the availability of legal services, if that is the desired goal. And, indeed, new "allied profession" may create opportunities for social mobility which do not now exist; people who do not aspire to the lofty status of fully trained lawyers may aspire to the lesser but substantial dignity of new professions.

Of course, the risk of creating job dissatisfaction remains. As does the inevitability of relatively high training costs. And the inevitability that the new professionals will pursue the common course and soon find protective devices of their own. One can almost foresee the day when it would be necessary to develop more new professions to compete with the over-protected and over-priced old ones which we would create.

A case can be made for the proposition that colleges and universities have, in fact, an obligation to try to develop new professions. The argument rests essentially on the proposition that power gives rise to duty. I think that it is fair to assert that higher education did not seek to become the gatekeeper to the labor market. While no one intended that result, it is a result which was forced on the institutions by the circumstance and psychology of modern society. I fear that modern men cannot value a service unless its worth is certified by means of academic credentials. Indeed, I fear that modern men doubt their ability to perform a useful service to others until they have been so certified to perform it. If this is so, our fellow citizens can enjoy proper service at an appropriate price only with the cooperation and assistance of those who hold the keys to the credentials. Thus, it can be reasoned, we have the power to satisfy a need, and hence a duty to do so. The duty is, to be sure, not absolute ; it is one to be weighed against competing duties and obligations of institutions. But higher education cannot, in this view, turn a wholly deaf ear to the plea of those who seek help in launching new professions, after having played so integral a role in establishing the position and cementing the power of older ones.

It is, in fact, with this latter view in mind that I have given some thought to the establishment of new professions. Thus, I commend to you the efforts of Sangamon State University in Illinois to establish a new legal profession in the area of what it rather euphemistically describes as Social Justice. Their graduates would be prepared to deliver limited legal services in the area of welfare, police administration, prison administration, and probation and parole. And I also commend to your attention a kind of program which we are now contemplating at the University of Michigan. Let me conclude by describing that program.

The Michigan program, if it finds funding, would be located in the University of Michigan School of Education. Its purpose would be to elevate the legal competence of some school administrators and other school personnel, it enables them to deliver a variety of limited legal services to public institutions and to the consuming public.

The program will not be costly to the students. Because school workers are not employed in the summers, it is possible to limit the loss of foregone income by concentrating much of the program in the summers. As presently contemplated, the program would consist of six courses. Two would be taken in a first summer, two in a second summer, and one each during the intervening semesters. The fall and winter instruction would be conducted on Saturdays.

The six courses would focus each on one of the following topics: tort liability of educators and governmental agencies; administrative due process and the rudiments of judicial review; separation of powers and the distribution of power and responsibility among the different levels and branches of governments; equal protection and the several legislative programs designed to assure equality of educational opportunity; employment contracts and public collective bargaining; and, finally, public property and finance. A number of moot court and quasi-clinical experiences would be planned for the program.

It would be expected that graduates of the program would be as well qualified as formal training can make them to participate in the handling of grievances against teachers or administrators, in the administration of school discipline, in the drafting of school policies, and in collective bargaining. Most would be employed by local school districts as administrators, grievance officers, or student advocates, but some might be employed at other levels of government, by teachers' unions, or, imaginably, by private law firms representing schools, unions, or civil rights groups.

The program will be taught by lawyers selected and supervised by law faculty serving in an adjunct role to the School of Education. Law students will assist in the instruction as tutors and examiners. Some of the summer classes would be conducted in the Law School. The Law Library would be available for the use of students in the program. The students will be limited in number and selected competitively.

We do not believe that this program will conflict with the general education goals of the University of Michigan. Indeed, the program is likely to be more rigorous and more true to the goals of general education than is most of the program now conducted in the School of Education.

We do not suppose that this program will significantly influence the price of legal services or the cost of delivery, but it may improve the quality and availability in an area in which legal issues and legal rights are too frequently ignored or handled very crudely. For the most part, our new professionals would be providing a service that is now unavailable.

We see little reason to fear that our graduates will be over-trained to the point of assuring job dissatisfaction, because the program will not be very grand. But, at the same time, we hope that it will be substantial enough that some of the humanistic tradition of inquiry will be transmitted to the candidates.

In short, what we hope to do is to use the traditions and power of the University to transmit to a number of school administrators the belief that they can, indeed, handle a range of delicate problems of a legal nature in a sensible and humane way without resort to the bulwark defense of ignorance which traditionally characterize bureaucratic behavior, and to transmit to their employers a modest confidence that these people can be trusted to exercise judgment in appropriately limited situations.

In substance, what we hope to create are some modern American legal analogues to the "barefoot doctors" who have practiced herbal folk medicine in China for several millennia. The Maoist regime has apparently rediscovered these citizens, steeped them in eulogies, provided them with a minimum of on-the-job training with the smallest dose of formal instruction, and made them the staple instrument of health care to almost a billion people. Our school law specialists or legists (what should we call them?) will not be barefoot, but they may, acting on their own, bring legal care into some precincts in which all caring has been long absent.

Might such a program have revolutionary impact on the public schools or the legal system? I hardly think so. Revolutionary change in such institutions would be desirable, I believe, but it is not feasible by any means known to me. Only modest results can be hoped for. But that, I am afraid, is simply the human condition. We can achieve, but our achievements must be limited by our resources both of power and understanding.

It is no more than barely possible that the creation and growth of twenty or thirty such programs in a variety of institutions of higher education could add a touch of grace, a touch of humanity, to many, if not all, of our public institutions. Success is not guaranteed. But the chance seems worth the effort.

UNIVERSITY OF CALIFORNIA, LOS ANGELES,
UNIVERSITY EXTENSION,
Los Angeles, Calif., July 17, 1974.

Hon. Senator JOHN V. TUNNEY,
Chairman, Subcommittee on Representation of Citizen Interests, U.S. Senate,
Washington, D.C.

DEAR SENATOR TUNNEY: On behalf of the Attorney Assistant Training Program offered by University Extension, UCLA, in conjunction with the UCLA School of Law, we welcome an opportunity to submit this statement to the Senate Judiciary Subcommittee on Representation of Citizen Interests.

I.—UNIVERSITY EXTENSION, UCLA'S ATTORNEY ASSISTANT TRAINING PROGRAM

By way of background, our's is a concentrated training program, averaging 200 plus hours, leading to a specialization in a particular interest area, such as probate, corporations, or litigation. We are able to offer such a concentrated, high quality program because our admission requirements include a Bachelor's Degree or its equivalent in experience and/or education. We are currently planning a new course in real estate law, and in addition will offer for the first time this Fall selected units from these courses, such as discovery and legal research, on a short-term basis. These modules are designed to make continuing education available to the graduates of our certificate programs and for others already employed in the legal field.

II.—RE: AVAILABILITY OF LEGAL SERVICES AND LOWERING COST

The question of the use of paralegals as means of increasing the availability of legal services and lowering the cost requires a two part response.

A.—AVAILABILITY

The availability to the private sector of the legal profession of a pool of well-trained paralegals large enough to make a positive impact on the availability of legal services is becoming a reality. At UCLA, we are developing new programs and training these new careerists as rapidly as sound training principles permit and the employment market demands. Others appear to be doing likewise.

It is our firm belief that if the concept of increasing the availability of legal services to a wider sector of the public is adopted as both a philosophical and an action goal by the legal profession, then the use of paralegals can make a major contribution toward the early attainment of that goal.

An essential requirement is to stay open to the possibility of using paralegals in new ways—expansion into new areas rather than restricting their use to ways presently conceived. For the few who hear this as threatening to some in the legal profession, we would urge that study of other professions be made toward the end of determining whether the use of paraprofessionals may not, in fact, actually increase the demand for the professional by bringing more persons within the ambit of those services which only the professional can provide. This line of inquiry seems particularly appropriate in the legal profession. For example, many lay persons simply function without benefit of a level of counsel that would make a difference. They, too, often don't even know there is a question which can be raised regarding a course of action. Most certainly are without knowledge that there are options, legal options, available to them. Only the attorney is in a position to effectively aid the person in selecting appropriate courses of action; but the paraprofessional, under the direction and supervision of an attorney can be a major factor, laying the foundation for expeditious, effective interaction at the point of attorney-client interface.

B.—COST

Whether utilization of paralegals will, in fact, result in lowering the cost of legal services is a question that ought to be asked. Adequate documentation is available demonstrating that the informed, systematic use of legal assistants (paralegals) can produce substantial cost savings. Whether these savings are being or will in the future be passed on to the public is less clear.

It is important to delineate those situations for which the question of cost savings is appropriate:

The use of legal assistants will have less bearing on costs in situations where there is a statutory fee structure, e.g. probate.

Their use does have a bearing on costs in those firms in which the client's total bill reflects a lower charge for those tasks actually performed by the paralegal rather than the attorney. From personal experiences with some of our faculty who are practicing attorneys, and from our graduates working in law firms we have found that actual cost reductions are being instituted based on the use of paralegals. Because of the complexity and the long range importance of this issue we feel it merits significant attention.

In situations where the use of paralegals facilitates the creation of institutions which can provide legal services to persons who would otherwise be without access to such assistance, the question of lowering cost is secondary to the question of availability.

III.—ACCREDITATION AND CERTIFICATION

A significant contribution to consumer protection can be made by carefully drawn and administered accreditation and certification requirements.

The student attempting to select a training course is at that point a consumer. Accreditation may be the only meaningful guide he or she has in making that selection.

Law offices, firms, institutions, agencies or individuals who hire the paraprofessional are consumers of that person's skills. Certification requirements not only provide an obvious additional incentive for serious study on the part of the student, they also provide the employer-consumer with at least minimum guarantees of competency.

We feel it important to be even more specific regarding both issues:

A.—ACCREDITATION

At UCLA, where quality is an internal mandate, we have no fears of external tests as such. We do have three major concerns with the process itself.

First, if the standards are too low then the ultimate goal of providing consumer protection becomes a farce.

Secondly, if the standards are too narrow (and they can be if developed by persons or boards lacking in practical experience or vision), then experimentation, innovation and creativity are constricted at the very time these qualities are needed most.

The growth of a new field of specialty, like that of a young child, requires fresh air and open space. To lock the direction of paralegal training into some fixed mold derived from limited views of what that training should look like is to determine not only what the training will in fact be, but also what the new career itself will be.

Further, since today's truth may become tomorrow's lie, we urge that any accreditation standards or approaches as may be adopted by appropriate bodies be subject to review and revision within a fixed period of time. It perhaps would not be facetious to recommend a self-destruct system which could only be renewed upon proof of its then current validity.

B.—CERTIFICATION

Our major concern is that certification not be used either by design or inadvertance to discriminate unfairly against persons who will be able to perform competently on the job.

The obvious way such discrimination can occur is through the use of screening devices or procedures which are unreliable or invalid. The less obvious but perhaps more insidious way is in the employment of those devices or procedures which possess built-in cultural biases.

IV.—ADMINISTRATION

Without taking a position on the question of who should do the accrediting or certifying, we simply urge that opportunity for inputs from those most affected by such requirements be provided for at every stage of development and at every level of decision making.

Sincerely,

YOLANDE H. CHAMBERS, J.D.,
Director, Department of Human Development and Services.

HUMPHREYS COLLEGE,
Stockton, Calif.

To: John V. Tunney, Chairman, Subcommittee on Representation of Citizen Interests, Committee on the Judiciary, U.S. Senate.

From: Gladys G. Humphreys, Chairwoman, secretarial and paraprofessional programs, Humphreys College, Stockton, Calif.

Re training of paralegals and impact on legal profession.

Humphreys College is pleased to reply to your letter of July 1 regarding the training of paraprofessionals in the legal profession. We have, for the past two years, been developing a specific program related to this subject. This program has been developed in cooperation with a committee comprised of practicing attorneys, highly trained legal secretaries, and members of the faculty of the law school which is administered by the Board of Trustees of Humphreys College.

The potential for lowering the cost and increasing the availability of legal services would, in my estimation, be related to the number of practicing attorneys in a given area. It is clear that there has been a rapid increase recently in the number of students who matriculate in law schools; but it is not clear that the number of practicing attorneys is keeping pace with an ever-increasing population and an even greater increase in the demand for legal services. California's population continues to grow, thus making legal service more difficult to procure for the average citizen, and consequently, more costly. Accordingly, it is our belief that a highly trained paralegal individual is a definite asset to the lawyer or law firm for whom he or she works and also to the public.

With the services of a competent and certified legal assistant, an attorney is enabled to use his time for higher levels of legal practice by delegating many of his routine duties to a paraprofessional in the office.

Paralegal students are trained in a number of aspects of the practice of law: They are able to manage the business and personnel functions of the law office, delegate responsibility among the non-legal staff, train and supervise new office employees, and handle or supervise financial responsibilities for the attorney. In a large legal firm, office management is time consuming and must be conducted by one who is familiar with the practice of law.

Other paraprofessionals are used as legal research and analysis assistants, litigation assistants, probate assistants, and as intermediaries in inter-law-office communications and procedures. In fact, the legal assistant can be trained to handle much of the preliminary work of litigation, thus freeing the attorney for more time with the client and more time to prepare his case or whatever other work requires his legal expertise and knowledge.

Whether or not the availability of good paralegal service would effect a reduction of the cost of legal services to the client, it would at least provide the client with more timely availability of legal services and, probably, more thorough consideration and better legal advice regarding his case.

6.1

From the standpoint of one who is responsible for providing valid educational programs for paraprofessional legal workers, the problem of accreditation is important. A basic criterion for educational excellence which has been used by many respected accrediting agencies over a long period of time has been that of determining whether or not the institution (in the judgment of peers) is achieving its own stated educational objectives.

It is clear that in paraprofessional training a school which offers such training would necessarily have to include within its objectives the offering of whatever examination subjects or educational requirements are specified by the law of the jurisdiction under which the examination is given. The institution's reputation with responsible professional associations, including the State Bar, local Bar associations, and local associations of paraprofessionals also have a definite bearing on the accreditation of an institution. (In the training of paraprofessionals, I might add that it is a definite advantage to be in the environment of a law school. Access to a law library is of great help to paralegal students).

The United States Office of Education provides a long list of accrediting agencies which it views as sound authority for the quality of education. These criteria for "accrediting" accrediting agencies are bureaucratic and monopolistic and fall short of fully serving the educational needs of the people and the professional needs of the citizenry. Accreditation, in my estimation, should not limit the number of paraprofessional training institutions qualified to provide this service for the public by any means other than evaluation of peers that the institution reasonably does or does not achieve its objectives in this field. Humphreys College is accredited by the Western Association for Schools and Colleges, a regional accrediting agency. This agency accredits the institution as a whole, including all its programs of education.

It would seem to be undesirable to create still another bureaucratic accrediting agency to accredit paralegal education.

The California Legislature now has under consideration AB 1814–Willie Brown. As amended on June 24, 1974, this bill provides that paralegal (Certified Attorney Assistants) services may be conducted only under the direct control of a member of the Bar. However, the control of licensing or certification, as provided in the bill, is under the authority of the "Certified attorney assistant board." The composition of the proposed Board is as follows: "Nine members, three to be appointed by the Board of Governors of the State Bar, two of which shall be members of the State Bar and the other shall be a public member; three members to be appointed by the Judicial Council, of which two may be members of the State Bar and the other one shall be a public member; three members to be appointed by the Legislature, two by the Speaker of the Assembly, both of whom shall be persons engaged in paralegal work or be certified attorney assistants or persons engaged in the training of paralegals or certified attorney assistants; and one public member to be appointed by the Senate Rules Committee. . . ."

The above quotation illustrates the importance the Legislature attributes to membership on the proposed board of "lay" or "public members."

Another consideration in planning licensing or certification would be providing recognition to the many highly trained legal secretaries who are now working in a paraprofessional capacity; also law clerks who are deserving of certification through experience (they could be required to take an examination, but, for them, it should not be difficult to become certified).

Humphreys College is a small private non-profit college. It has been offering educational services to this community since 1888, and is now under the management of the second and third generations of the Humphreys family. It is through recognizing and skillfully serving the changing educational and professional needs of the community that we have found a significant place in California's higher education for so long a time. Consequently, official recognition of status for worthy paralegal students and the opportunity to provide appropriate paralegal education is considered a welcome challenge because we see a definite need for this type of service. We have been training lawyers for almost twenty-five years; and court reporters and legal secretaries for many more than twenty-five years. Humphreys College has a large and successful alumni who are working in the legal field (more lawyers in the county have been educated at Humphreys law school than any other law school).

VENTURA COUNTY COMMUNITY COLLEGE DISTRICT,
DISTRICT ADMINISTRATION CENTER,
Ventura, Calif., July 15, 1974.

Senator JOHN V. TUNNEY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR TUNNEY: This is in reference to your request of July 1 that we provide our views on different aspects of paralegal training programs. We feel the public community college system can provide excellent training for paralegals at low costs and increase the availability of legal services for particularly the economically disadvantaged persons in our society.

Our District is considering the development of a paralegal program and we feel our costs would be approximately $1,000 per full-time student per academic year. This would be training for a person who is not currently employed in any aspect of paralegal activities and would be what we call "pre-service" training. It would take two years of training or costs of $2,000 for a person to be trained for direct employment in the paralegal occupation. We know that in our state similar training by a four-year college or university would be at least 50% to 100% more expensive for the same two years of work.

The crucial question to us is that of licensing and accreditation of these training programs. The necessary Federal and/or state legislation must be enacted as well as receiving the active cooperation of the Federal, state, and local bar associations for paralegal training and employment to become a continuing reality.

At the present time, a paralegal professional who could be of great help to economically disadvantaged persons is severely limited because he must serve under the direct supervision of a licensed attorney, usually in a private practice. If the disadvantaged are to be provided with the aid which they need, there should be some legislation enacted which will allow the paralegal to become licensed in order to provide limited legal services.

The state bar associations would appear to be the most logical organizations to provide thhe licensing service—perhaps through a testing process similar to that currently being used for certifying attorneys to the state bar.

Accreditation of individual college paralegal programs by state bar associations, however, would appear to be so burdensome as to be impractical. It is suggested that a better approach would be to have the state bar certify the curriculum of learning institutions so that the institutions could refer potential candidates to the state bar associations, after sufficient course preparation with sufficient academic achievement, to go through the state bar testing process necessary for certification as a paralegal.

An additional point is that licensing of the paralegal would be an enticement to many potential students for this type of program. It is the type of incentive that encourages many students to become registered nurses, psychiatric technicians, inhalation therapists, real estate persons, and similar occupations requiring licensing by the state.

In summary, we feel strongly that the nearly 1,200 public community colleges in the United States have a major role to play in the training of paralegals. We hope that the necessary legislation and grant "seed" monies will be made available to rapidly expand this training. There is no question in our minds that equal treatment under the law can only occur when the economically disadvantaged have legal services available to them at lower cost and in a convenient manner.

Sincerely,

WILLIAM H. LAWSON,
Assistant to the Superintendent, Instruction/Services.

LAW OFFICES, RICHARD A. STONE,
Beverly Hills, Calif., July 18, 1974.

Senator JOHN TUNNEY,
Chairman, Subcommittee on Representation of Citizens Interest, U.S. Senate,
Washington, D.C.

DEAR SENATOR TUNNEY: Thank you and the Committee for your letter dated July 1, 1974 inviting my views on the potential value of paralegals.

Let me start out by saying that there are two separate paralegal collectives developing in California. Those are public sector paralegals and private sector paralegals. Public sector paralegals are comprised of those persons working for Legal Services, public law firms, government regulatory agencies, and consumer groups. Private sector paralegals are employed by private law firms and sole practitioners.

While the two factions may not always be distinct, for the present they are engaged in different activities, receive different training, and have different goals. For the past two years I have been involved in training and supervising paralegals for a Legal Service Office in Southern California. Therefore, most of my comments will be directed towards the potential value of public sector paralegals.

PARALEGALS AS A POTENTIAL FOR LOWERING LEGAL COSTS AND INCREASING AVAILABILITY OF LEGAL SERVICES

There is no doubt in my mind that paralegals, if trained properly and utilized to their fullest capacity, can expand the availability of legal services, provide higher quality services in some areas of the law, and lower the costs of such services. The area of administrative law is a good example of where paralegals can extend client representation and do so at a minimal cost.

Expanded government involvement in the lives of citizens has resulted in an increase of agencies that an individual comes in contact with. Such agencies as the Social Security Administration, Welfare Departments, State Unemployment Insurance Dpartments, Licensing Boards, Department of Motor Vehicles, School Administrations, etc. touch upon every citizens' life at one time or another. When a conflict arises between an individual and one of the abovenamed agencies, the individual usually needs help in resolving the problem because of the complexity of the regulations affecting him. This is especially true for millions of senior citizens whose existence depends upon the funds they receive from the Social Security Administration.

These same individuals if they can afford an attorney have a hard time finding one who is familiar enough with the voluminous regulations promulgated by the agency to provide the kind of qualified representation required. After all, how many private attorneys are going to represent an indigent client before the Social Security Administration to argue against a decrease of $20.000 in their monthly allotment? Virtually none, because the amount is too small to warrant the effort of researching the applicable regulations let alone investing the time to prepare the case. Yet the $20.00 means as much to the recipient in terms of survival as does the $100,000.00 to a commercial litigant.

Many Legal Services Offices faced with growing administrative law caseloads and shrinking budgets started to investigate the use of paralegals to represent clients before administrative agencies. Fortunately most administrtaive bodies allow a qualified lay person to appear on behalf of a claimant. The Legal Aid Program I was associated with made a concerted effort over the past three years to switch the administrative law caseload from the attorneys to the paralegals. The cost analysis of such an undertaking in the area of welfare law can be found in Appendix No. 1 to this letter.[1]

In addition to the conclusion that the paralegals were providing more services at a lower cost than the attorney they replaced, several other benefits were realized.

First, the paralegals were able to devote more time to clients with the result that the clients felt better about the services they were receiving. Second, paralegals became specialists in certain administrative law areas. As a result, they were able to service a greater number of clients in less time than an attorney whose caseload comprised only a small amount of administrative law matters. Third, because the paralegals viewed these cases with the same gravity and concern an attorney views a case involving large figures or weighty issues, the quality of their representation surpassed that of the attorneys handling administrative law cases. Finally, by utilizing paralegals to relieve attorneys of certain areas of their caseload and certain time-consuming ministerial functions the attorneys were able to:

1. Expand their services to a greater number of clients; and
2. Exercise the skills they were trained to utilize to resolve disputes.

Stretching these observations by an analogy, I don't think it is too far-reaching to conclude that the same benefits can be realized in other areas of the law. What is necessary to realize the benefits of utilizing paralegals is a commitment of resources by the government and other concerned parties to training of paralegals and the development of innovative systems for the expanded delivery of quality legal services.

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[1] Excerpt from "The Development and Integration of a Paralegal Staff and System in a Legal Services Setting." (1973) Lerner, Marc unpublished.

By way of passing, I should like to point out that while in public law all cost savings are passed onto the client because there is little or no profit motive, this is not altogether true for the private sector. There is no mechanism in the private sector for seeing that lower costs are realized by the consumers of legal services. The profit motive is a prime incentive in this area. Whether lower costs will be passed onto the consumer or whether lower costs means higher profit margins for the provider of services depends, in private sector law, upon the motives and goals of the provider.

ACCREDITATION AND LICENSING

As you know, California is the first state attempting to license paralegals and accredit the institutions that purport to offer paralegal training curriculums. It is my feeling that these efforts are coming too soon. No one will quarrel with the fact that regulation will be needed at some point. Yet because paralegals are a developing profession, the techniques of training, education and curriculum design are still in their infancy stage. To try and regulate this profession at this time can be potentially restrictive because the paralegal roles are still for the most part not defined.

As I mentioned earlier in this letter, there is a difference between the roles of the public and private sector paralegals. Around these rules have grown different training methods and curriculums. For example, a paralegal in my office would among other things, interview applicants for legal assistants, research the law, negotiate settlements with administrative agencies, advocate on behalf of clients at administrative hearings, draft correspondence, engage in legal and brief writing and counsel clients in a variety of quasi legal areas. For these functions the paralegal's training included:

1. Attending a week long intensive advocacy training course covering interviewing, investigation, research writing and lay advocacy skills;
2. Attending seminars where substantive and procedural law were discussed;
3. Attending daily meetings with attorneys;
4. Working under the supervision of staff attorneys and
5. Reading materials especially prepared to learn Legal Service paralegals.

A private sector paralegal may specialize in an area such as probate law. The training is usually an intensive ten week course at a university. Upon completion of the course they might spend five days in a large law firm specializing in estate inventory and accounting. It is clear that there are diverse skills necessary in this profession. Therefore, the training will have to be different and should relate to the job skill whenever possible.

One of the problems with legislating in this area is the tendency of State Bars to promulgate one written exam as the measuring device for obtaining a credential. The model is predicated upon the Bar exam for lawyers, an exam that has come under fire for its inadequacy in testing job related skills and discrimination against minorities. If not carefully monitored legislation in this area can have an exclusionary effect against minorities and others who do not do well on written exams. Setting uniform entrance and performance criteria to test persons entering a profession where skills are varied can prevent those who don't perform well on tests from qualifying when perhaps they are in fact the best qualified in their area of expertise.

While I recognize this may always be a problem in a profession requiring various skills, I can only stress that in order to avoid the pitfalls in designing licensing and accrediting systems that have already restricted the amount of professionals and paraprofessionals available to the public, the matter deserves a careful inquiry prior to legislating. It seems to me that the purpose of licensing and accrediting is to: 1. Protect the consumer of the service; and 2. Protect the student training to serve.

I feel confident that nothing will be sacrificed by delaying legislation governing paralegals because in most, if not all, states paralegals are required to work under attorneys who are themselves governed by existing regulations. Therefore, because an attorney is responsible for the work done by his paralegals the public has existing remedies for the harm caused by untrained or unsupervised paralegals. As for the concern expressed that various proprietary schools are defrauding prospective paralegals, I suggest that it is easier and less costly to amend state education codes governing these schools than to create a new body of law governing paralegals.

Utilizing existing state regulation schemes as mentioned above will protect the interests ~~concerned and~~ allow for a careful inquiry into the licensing and accrediting. For it is only through a careful inquiry into those matters that we are going to arrive at the innovative delivery systems and curriculums that can lead to realizing the full potential of paralegals.

That a hasty inquiry into these matters can result in legislation that is potentially exclusionary and restrictive in its intent can be seen by a careful reading of the history of California Assembly Bill 1814. (See Appendix No. 2.) The bill introduced by the State Bar of California was vigorously opposed by Legal Services, consumer groups, public and private sector paralegals because its wording (copy amended August 6, 1973) was vague and it didn't reflect the concerns of the public sector. Though the Bar stated that its intent for introducing the bill was to authorize the State Supreme Court to expand the activities which paralegals could engage in,[2] their first draft indicated that they had little or no knowledge of the needs of the consumers of public law services. Through a series of negotiations with the State Bar, we were able to have some of our interests represented and to delete or change some of the more potentially restrictive clauses. The result (copy amended Senate—June 24, 1974) is a bill that is palatable but neither the State Bar nor the public sector advocates are entirely happy with the result.

The two main issues of contention that remain are: 1. Paralegal education prior to certification; and 2. The amount and source of control over the profession.

The State Bar wants to have total control over the profession including the content and format of education as well as over the disciplinary proceedings. While they claim the control will be over the "Certified Attorney Assistants" only and not all paralegals, in reality the bill will probably set the standards for all paralegals interested in making the profession a career. The result will be that job availability will strongly favor those who can obtain a credential.

While I think that State Bars have a vital interest in paralegals and their development, they alone should not control accrediting and licensing. State Bars should not alone control accrediting because they may not be the best qualified to set the standards. Without guaranteed input from educators, consumers and both public and private paralegals, there is little chance that innovative paralegal curriculums and delivery systems will be proposed.

Offering themselves as the sole judge of accreditation standards is contrary to current education theory in this area. Numerous education authorities have drawn the conclusion that accreditation is a slow process that should strive to achieve some uniformity in the field and avoid fragmented standards. (See Appendix No. 3, New York Times, January 28, 1973).

State Bars should not alone control the licensing of paralegals because it may be a conflict of interests for them to control paralegals. To have the employers who pay salaries promulgating rules that govern the profession may amount to anti trust violations. When the time for licensing and accrediting is proper, control should rest in boards, appointed by legislatures, whose members comprise the broadest possible representation of the interests concerned.

If I may be of any further assistance in this inquiry, please contact me.

Sincerely,

MARC LERNER.

APPENDIX No. 1

These systems are valuable in that they give paralegals an approach to handling recurrent client problems with minimal amount of attorney supervision.

THE CHANGE IN CASELOAD DISTRIBUTION AND COST FACTORS AS A RESULT OF THE IMPLEMENTATION OF A PARALEGAL SYSTEM

As indicated above, the primary emphasis for the improvement and expansion of the paralegal systems was in the main office and the downtown office. The effort to improve and expand the system began in about May, 1972. It was anticipated that one of the benefits derived from the expanded paralegal system would be a redistribution of cases. This result was projected on the basis of the caseload review done in February which showed there were many attorneys handling matters which could have been quickly disposed of by a trained paralegal.

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[2] These activities proposed included appearance in court on uncontested ex parte motions and taking depositions, among other things.

The statistics over a twelve month period of time verify the projected results. As indicated in Table 1, in the two offices where the paralegal system was expanded and improved, the number of cases handled by paralegals increased substantially from the first of the year to the latter part of the year. In the office where the paralegal system remained essentially an intake system, there was no expansion of the number of cases handled by the paralegal.

TABLE 1[1]

	Downtown		Central		San Pedro	
	Attorney	Paralegal	Attorney	Paralegal	Attorney	Paralegal
January	200	57	72	34	140	41
February	178	84	60	24	95	58
March	198	109	81	47	116	53
April	157	128	83	30	110	40
May	216	129	101	30	187	37
June	190	151	75	69	128	45
July	210	141	64	84	74	62
August	207	189	74	74	106	39
September	183	190	61	51	98	41
October	197	177	71	67	94	53
November	146	186	73	62	92	32
December	132	149	40	64	79	35

[1] Total caseload breakdown by categories is attached hereto as exhibit.

While there is any substantial increase in the number of cases referred to attorneys only in the last two months in the downtown office and the last month in the central office, the ratio between the cases referred to attorneys and those retained by paralegals begins to change significantly as early as August. From the statistics of the first part of the year, and from the San Pedro office, it appears correct to say that had the paralegal system not been expanded and improved there would have been an ever increasing number of cases referred to attorneys.

The statistics for the twelve month period appear to verify the assumptions that have recently been made by such people as the Legal Services Training Program regarding the composition of attorney caseloads in legal service offices. One of those assumptions has been that attorneys carry and get involved in matters which do not need the attention of an attorney and that artificially inflate an attorney caseload figure. In addition, such cases tend to keep attorneys from involving themselves in major litigation or impact type litigation. As is clear from Table One, as the paralegals became more and more experienced and trained, the number of matters they were able to handle greatly increased. The theory that an operating and well developed paralegal system will allow attorneys time to handle major litigation and other cases requiring close attorney attention and at the same time provide representation for a number of individuals with minor matters is, we feel, supported by the experience of the system described herein.

THE COST FACTORS OF A PARALEGAL SYSTEM

Given that a paralegal system appears to increase the efficiency of an office, we must examine the costs involved to determine if the increased efficiency cover all aspects of the office. The method of cost record keeping utilized by most legal service offices makes it difficult, if not impossible, to accurately determine any cost figure for paralegals which is meaningful. This problem, of course, is not unique to a paralegal system, since even the best managed legal service office finds it is difficult to establish an accurate cost for each case handled. The problem becomes particularly acute however when an attempt is made to determine the cost of a system in which all clients are initially interviewed by paralegals and some of those cases are handled entirely by those paralegals, as is done in the system described above.

The costs which are discussed with regard to the system described herein were determined by apportioning overall costs, adding paralegal salaries actually paid, and setting a salary for those not paid. The apportionment was made in various ways, depending on the cost involved. Essentially, the costs were determined in the following way:

Rent: By square footage necessary for paralegal facilities;
Telephone: Prorata share of the overall bill, individual long distance calls billed separately;
Supplies: Monthly cost figure based on material used;
Xerox: Actual cost;
Travel: Actual cost;
Equipment: Prorata share;
Postage: Prorata share.

It was not possible to determine the cost for cases in which advice only was given as opposed to those in which the paralegal made an appearance at an administrative hearing or in some other manner participated in advocacy with the exception of the welfare cases. In those cases we were able to do an accurate cost analysis and to compare attorney and paralegal costs.

There are a variety of accounting methods which could be used to determine the cost of a paralegal program. However, the relatively simple method used with the system described herein meets most of the needs of a legal service program in terms of being able to determine where resources are allocated and the benefits received from the resource allocation. Even this rather simple system gives legal service programs some idea of the costs involved in the development and operation of a paralegal system and should be helpful in making decisions regarding the implementation of a paralegal system.

Table Two shows the cost per case for each case handled by an attorney as compared to the cost for each case handled by a paralegal. The immediate objection will undoubtedly be made that it costs more to have the attorney handle the case because the cases in the attorney caseload are more complex and difficult than those in the paralegal caseload. In some legal service programs such a statement will be true. However, that factor does not detract from the fact that even in the bes programs attorneys handle cases which could be handled by paralegals for a reduced cost. In addition, the figures would seem to show that more clients can be represented for less cost, at the same time insuring attorneys are able to provide competent representation on major matters.

TABLE 2

	Downtown	Central	San Pedro
Overall cost for attorneys	114,930.64	60,257.48	82,716.51
Overall cost for paralegals	23,478.26	7,659.40	11,121.03
Average cost per case for attorneys	51.91	70.47	62.71
Average cost per case for paralegals	13.89	12.04	20.74

In the Harbor Office, where the paralegal staff has not been exposed to the same training program as in the other offices, the paralegal cost remains high compared to the other offices. One of the reasons for this seems to be the inability of the paralegal to utilize the systems introduced in the other offices and, as a result, the inability to handle the cases assigned as efficiently as the paralegals in the other offices.

In the area of welfare fair hearings we are able to draw a very accurate comparison of the cost difference as between representation by paralegals as compared to attorneys. For some period of time there was an attorney employed in the downtown office who was responsible for the bulk of the fair hearing cases. We have determined the costs for that attorney as compared to the costs for the trained paralegal handling the same caseload. Not only is the cost for the paralegal substantially lower than the cost for the attorney, there has been absolutely no change in the results achieved, i.e., the win-loss record has remained the same. Table Three indicates the results obtained by comparing the attorney-paralegal costs for handling fair hearings.

TABLE 3

	Attorney	Paralega
Total 12 mo cost	$14,069.85	$7,895.74
Percentage of time on fair hearings	0.40	0.65
Cost of time spent on fair hearings	$6,331.43	$5,132.23
Fair hearings handled	35	55
Cost per fair hearing	$180.89	$93.31

All information relating to the costs of a paralegal system tends to support the concept of the integration of trained paralegals within a legal service office. Not only can improved service be provided the general community, but the improved service can be provided at a reasonable cost to a program. Perhaps even more importantly, the make up of the attorney caseload should, in many situations, change significantly. The primary change should be to eliminate from already overburdened attorneys cases for which an attorney is not necessary. In addition, the paralegal can significantly reduce the nonproductive time of the attorney by undertaking investigation and similar functions now performed by attorneys. Based on our statistics, we are convinced that greater overall efficiency exists for a legal service office when paralegals are integrated within the office, efficiency not only in terms of money and time, but in terms of client service as well.

PARALEGAL CONTRIBUTIONS TO THE FOUNDATION

Most writers dealing with the subject of training paralegals agree that attorney cooperation is necessary to maximize paralegal training and contributions to a legal services office. We have also found this to be true and we are fortunate in that our attorneys have cooperated and shown an interest in developing our paralegal staff. On March 20, 1973, we conducted a survey among the attorneys as to their feelings about paralegal performance at the foundation. The attorneys were asked to rate performance in certain areas on a scale of 1 to 5. Five being the highest and greatest rating possible. The attorneys were asked the following questions:

1. Quality of jobs paralegals are doing re:

	Scale				
	1	2	3	4	5
A. Interviewing					
B. Presenting short cause problems to attorney					
C. Asking informative questions					
1. Issue spotting					
2. Completeness with presentation					
3. Conciseness					
4. Writing style					

APPENDIX NO. 2

[California Legislature—1973-74 Regular Session, Assembly Bill No. 1814]

INTRODUCED BY ASSEMBLYMAN BROWN, APRIL 26, 1973, REFERRED TO COMMITTEE ON GOVERNMENT ADMINISTRATION

An act to add Article 11 (commencing with Section 6201) to Chapter 4 of Division 3 of the Business and Professions Code, relating to certified attorney assistants

LEGISLATIVE COUNSEL'S DIGEST

AB 1814, as introduced, Brown (Gov. Adm.). Certified attorney assistants. Enacts the Certified Attorney Assistant Act.

Vote: majority. Appropriation; no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Article 11 (commencing with Section 6201) is added to Chapter 4 of Division 3 of the Business and Professions Code, to read:

Article 11. Certified Attorney Assistant Act

6201. This article is known and may be cited as the "Certified Attorney Assistant Act."

APPENDIX NO. 2

[Amended in Assembly August 6, 1973, California Legislature—1973-74 Regular Session, Assembly Bill No. 1814]

INTRODUCED BY ASSEMBLYMAN BROWN, APRIL 26, 1973, REFERRED TO COMMITTEE ON GOVERNMENT ADMINISTRATION

An act to add Section 6032, and Article 11 (commencing with Section 6201) to Chapter 4 of Division 3 of the Business and Professions Code, relating to certified attorney assistants

LEGISLATIVE COUNSEL'S DIGEST

AB 1814, as amended, Brown (Gov. Adm.). Certified attorney assistants. Enacts the Certified Attorney Assistant Act.

Requires Board of Governors of State Bar to establish criteria for certification of attorney assistants, including standards for training programs and accreditation of educational institutions offering such programs.

Permits board, subject to approval of Supreme Court, to adopt rules among other things, permitting certified assistants to perform legal services otherwise prohibited. Makes other provisions relating to such certified attorney assistants.

Vote: majority. Appropriation; no. Fiscal committee: *yes.* State-mandated local program: no.

The people of the State of California do enact as follows:

[Section 1. Article 11 (commencing with Section 6201) is added to Chapter 4 of Division 3 of the Business and Professions Code, to retad:

[Article 11. Certified Attorney Assistant Act

[6201. This article is known and may be cited as the "Certified Attorney Assistant Act."]

Section 1. Section 6032 is added to the Business and Professions Code, to read:

6032. Nothing contained in this chapter shall preclude any person not an active member of the State Bar from serving as an employee of, assistant to, or certified attorney assistant to an active member of the State Bar or a partnership composed of active members of the State Bar or a law corporation which has a currently effective certificate of registration from the State Bar; provided, however, that such services must be under the control, supervision and compensation of an active member of the State Bar; and provided further, however, that such employee, assistant or certified attorney assistant shall not, unless otherwise specifically authorized by this chapter or any rule or regulation established by the board of governors pursuant to this chapter, engage in any activity or conduct in violation of this chapter or any rule or regulation which the board of governors from time to time may establish under this chapter.

Sec. 2. Article 11 (commencing with Section 6201) is added to Chapter 4 of Division 3 of the Business and Professions Code, to read:

Article 11. Certified Attorney Assistant Act

6201. As a means of assisting members of the State Bar efficiently to provide more of the public with quality legal services, the Legislature intends to establish in this article a framework by which men and women who have acquired specified skills can obtain recognition as certified attorney assistants. It is the purpose of this article to encourage the more effective utilization of the services of members of the State Bar by providing for innovative development of programs for the education, training, certification and use of certified attorney assistants.

6202. As used in this article:

(a) "Board" means the Board of Governors of the State Bar.

(b) "Approved program" means any program for the education and training of certified attorney assistants which has been formally approved by the board under standards to be adopted by the board.

(c) "Accredited institution" means an institution offering approved programs, which institution has been accredited by the board, under standards adopted by the board.

(d) "Certified attorney assistant" means a natural person who has been certified by the board pursuant to this article.

6203. (a) The board:

(1) Shall establish criteria for certification of certified attorney assistants which shall include being of good moral character and passing an examination approved by the board;

(2) Shall adopt standards for approved programs for the education and training of certified attorney assistants;

(3) Shall have authority to accredit institutions offering approved programs; and

(4) Shall establish procedures for recerification and for continuing education of certified attorney assistants.

(b) In developing criteria for approved programs, the board shall give consideration to and encourage utilization of equivalency and proficiency testing and other mechanisms whereby credit is given for past education, experience and on-the-job training in law offices.

(c) In accrediting institutions, the board shall take into consideration such criteria as the board may specify including, without limitation, the quality of the curriculum, facilities, and faculty, and shall issue certificates of accreditation to institutions meeting the standards adopted by the board.

(d) The board, at such times as it deems necessary to determine compliance with purposes of this article, under rules and procedures established by the board, may review accredited institutions and approved programs and may withdraw approval of programs or accreditation or impose probation on any accredited institution not maintaining such standards.

6204. The board may adopt rules, regulations and procedures, subject to the approval of the Supreme Court:

(a) Authorizing certified attorney assistants to perform acts otherwise prohibited by Section 6126;

(b) Governing the professional activities and conduct of certified attorney assistants;

(c) Providing for discipline of certified attorney assistants, including but not limited to revocation or suspension of certification for violation of any rule, regulation or statute now or hereinafter in effect.

6205. Any person other than one who has been certified by the board who holds himself out as a "certified attorney assistant" or who uses any other term indicating or implying that he is a certified attorney assistant, is guilty of a misdemeanor.

6206. The board may adopt and publish such rules and regulations and impose such fees pursuant to this chapter and such other fees and charges as are reasonably necessary to carry out the purposes of this article. The board shall issue an appropriate certificate to applicants who qualify under this article.

6207. Nothing in this article shall be construed as affecting or impairing the disciplinary powers and authority of the Supreme Court or the State Bar in respect of conduct of members of the State Bar nor modifying the statutes and rules governing such conduct, except as expressly provided in this article.

[Amended in Assembly January 24, 1974, Amended in Assembly August 6, 1973, California Legislature—1973–74 Regular Session, Assembly Bill No. 1814]

INTRODUCED BY ASSEMBLYMAN BROWN, APRIL 26, 1973, REFERRED TO COMMITTEE ON GOVERNMENT ADMINISTRATION

An act to add Section 6032, and Article 11 (commencing with Section 6201) to Chapter 4 of the Business and Professions Code, relating to certified attorney assistants, and making an appropriation therefor

LEGISLATIVE COUNSEL'S DIGEST

AB 1814, as amended, Brown (Gov. Adm.). Certified attorney assistants.

Enacts the Certified Attorney Assistant Act.

Creates a certified attorney assistant board with three members appointed by Board of Governors of the State Bar, three by the State Judicial Council, and three by the Legislature, as specified.

Requires *the certified attorney assistant board, with the approval of the* Board of Governors of State Bar, to establish criteria for certification of attorney assistants, including standards for training programs and accreditation of educational institutions offering such programs.

Permits board, subject to approval of *Board of Governors and* Supreme Court, to adopt rules among other things, permitting certified assistants to perform legal services otherwise prohibited. Makes other provisions relating to such certified attorney assistants.

Appropriates an unspecified amount to the State Controller for allocation and disbursement to local agencies for costs incurred by them pursuant to this act.

Vote: [majority] ⅔. Appropriation: [no] *yes*. Fiscal committee: yes. State-mandated local program [no] *yes*.

The people of the State of California do enact as follows:

[SECTION 1. Section 6032 is added to the Business and]

Section 1. Section 6032 is added to the Business and Professions Code, to read:

6032. Nothing contained in this chapter shall preclude any person not an active member of the State Bar from serving as an employee of, assistant to, or certified attorney assistant to an active member of the State Bar or a partnership composed of active members of the State Bar or a law corporation which has a currently effective certificate of registration from the State Bar. However, any person rendering such services must be under the control and supervision of an active member of the State Bar. A certified attorney assistant shall not, unless otherwise specifically authorized by this chapter or any rule or regulation established by the board of governors pursuant to this chapter, engage in any activity or conduct in violation of this chapter or any rule or regulation which the board of governors from time to time may establish under this chapter.

No compensation shall be paid directly to any person not a member of the State Bar by the client to whom the services are rendered except where such person is a permanent employee of the client and the compensation of such person for services rendered is with the consent of the member of the State Bar.

Any rules, regulations or procedures issued pursuant to subdivision (a) of Section 6204 defining acts which may be performed by a certified attorney assistant shall not be used to determine what acts are prohibited by Section 6126 for other persons.

Sec. 2. Article 11 (commencing with Section 6201) is added to Chapter 4 of Division 3 of the Business and Professions Code, to read:

Article 11. Certified Attorney Assistant Act

6201. As a means of assisting members of the State Bar to provide the public with quality legal services more efficiently, the Legislature intends to establish in this article a means by which men and women who have acquired specified skills can obtain recognition as certified attorney assistants. It is the purpose of this article to encourage the more effective utilization of the services of members of the State Bar by providing for innovative development of programs for the education, training, certification and use of certified attorney assistants.

6202. As used in this article:

(a) "Board of Governors" means the Board of Governors of the State Bar.

(b) "Certified attorney assistant board" means that board of nine persons appointed in the manner and for the term provided in Section 6209.

(c) "Approved program" means any program for the education and training of certified attorney assistants which has been formally approved by the certified attorney assistant board with the approval of the Board of Governors under standards adopted as hereinafter provided.

(d) "Certified attorney assistant" means a natural person who has been certified by the certified attorney assistant board pursuant to this article.

6203. (a) The certified attorney assistant board after public hearings and subject to approval of the Board of Governors shall:

(1) Establish and publish criteria for certification of certified attorney assistants which shall provide:

(A) That an applicant for certification pass an examination established by the certified attorney assistant board with the approval of the Board of Governors;

(B) That no applicant for certification shall be deemed unfit by reason of race, color, creed, sex, national origin, or social or economic status; and

(C) That no applicant for certification or certified attorney assistant shall be denied certification or have such certification suspended or revoked for lack of good moral character or moral turpitude for a criminal conviction, except when there has been a conviction of a criminal offense arising from conduct in the course of the operation of a business enterprise or in the course of one's previous employment, and such offense, occurred within five years before the date of application for certification or the date of certification, or if final discharge from parole or probation supervision arising from such an offense occurred less than three years before the date of application or certification, then the board may take such a conviction into consideration when deciding whether to certify an applicant or to suspend or revoke the certification of a licensee.

(2) Adopt and publish standards for approved programs for the education and training of certified attorney assistants;

(3) Establish and publish procedures for recertification and for continuing education of certified attorney assistants.

(b) In approving programs, the certified attorney assistant board and the board of governors shall give consideration to, and encourage utilization of, equivalency and proficiency testing and other techniques whereby credit is given for past education, experience and on-the-job training in law offices as well as the quality of the curriculum, facilities, and faculty. The certified attorney assistant board with the approval of the board of governors shall issue certificates of approval to such programs.

(c) The certified attorney assistant board shall review any approved program upon the consent of the Board of Governors, at such times as the former board deems necessary to determine compliance with the stated purposes of this article, pursuant to the rules and procedures established as herein provided, and may withdraw approval or impose probation on any program not maintaining requisite standards.

6204. The certified attorney assistant board after public hearing may adopt rules, regulations and procedures, subject to the approval of the Board of Governors and the Supreme Court:

(a) Authorizing certified attorney assistants to perform acts otherwise prohibited by Section 6126;

(b) Governing the professional activities and conduct of certified attorney assistants.

6205. The Board of Governors after public hearing may, subject to the approval of the Supreme Court, adopt rules, regulations and procedures providing for discipline of certified attorney assistants, including but not limited to revocation or suspension of certification for violation of any rule, regulation or statute now or hereafter in effect.

6206. Any person other than one who has been certified under this article who holds himself out as a "certified attorney assistant" is guilty of a misdemeanor.

6207. The certified attorney assistant board after public hearings and with approval of the Board of Governors may adopt and publish such rules and regulations and impose such fees upon certified attorney assistants, and institutions or persons seeking program approval pursuant to this article as are reasonable and necessary. License fees for certified attorney assistants shall not exceed twenty-five dollars ($25) per annum. The certified attorney assistant board with approval of the Board of Governors and the Supreme Court shall issue an appropriate certificate to applicants who qualify under this article.

6208. Nothing in this article shall be construed as affecting or impairing the disciplinary powers and authority of the Supreme Court or the State Bar in respect to conduct of members of the State Bar nor modifying the statutes and rules governing such conduct, except as expressly provided in this article.

6209. The certified attorney assistant board shall be composed of nine persons; three members to be appointed by the Board of Governors of which only two may be members of the State Bar; three members to be appointed by the Judicial Council of which only two may be members of the State Bar; three members to be appointed by the Legislature, two to be appointed by the Speaker of the Assembly and one to be appointed by the Senate Rules Committee, none of whom may be members of the State Bar and only two of whom may be persons engaged in paralegal work or be certified attorney assistants.

Members of the certified attorney assistant board shall be appointed for a term of three years. However, with respect to the three initial appointments made by each appointing body, one appointment shall be designated by the appointing body to be for a term of two years, one for a term of three years, and one for a term of four years, except that the appointee of the Senate Rules Committee shall be designated to serve for a term of four years. No person may be appointed to a successive term.

6210. The certified attorney assistant board shall, within 90 days of its first meeting, appoint an advisory committee or committees composed of representatives from the various diverse organizations utilizing paralegals. Representatives from urban and rural organizations shall be included, and special consideration shall be made to insure a suitable distribution of appointees with regard to age, sex, race and national origin. The functions of the advisory committee or committees shall include, but not be limited to, a review of the impact of examinations approved program standards, actual utilization certified attorney assistants and certification criteria with regard to exclusion of minorities and access to the profession by members of the communities being served. The advisory committee or committees shall also consider the impact of this act in providing more of the public with quality legal services and in promoting employment of certified *attorney assistants. The advisory committee or committees shall periodically report its findings to the certified attorney assistant board and the California Legislature.*

Sec. 3. The sum of ——— dollars ($———) is hereby appropriated from the General Fund to the State Controller for allocation and disbursement to local agencies pursuant to Section 2231 of the Revenue and Taxation Code to reimburse such agencies for costs incurred by them pursuant to this act.

[*Professions Code, to read:*

6032. Nothing contained in this chapter shall preclude any person not an active member of the State Bar from serving as an employee of, assistant to, or certified attorney assistant to an active member of the State Bar or a partnership composed of active members of the State Bar or a law corporation which has a currently effective certificate of registration from the State Bar; provided, however, that such services must be under the control, supervision and compensation of an active member of the State Bar; and provided further, however, that such employee, assistant or certified attorney assistant shall not, unless otherwise specifically authorized by this chapter or any rule or regulation established by the board of governors pursuant to this chapter, engage in any activity or conduct in violation of this chapter or any rule or regulation which the board of governors from time to time may establish under this chapter.

[*Sec. 2. Article 11 (commencing with Section 6201) is added to Chapter 4 of Division 3 of the Business and Professions Code, to read:*

[*Article 11. Certified Attorney Assistant Act*

[6201. As a means of assisting members of the State Bar efficiently to provide more of the public with quality legal services, the Legislature intends to establish in this article a framework by which men and women who have acquired specified skills can obtain recognition as certified attorney assistants. It is the purpose of this article to encourage the more effective utilization of the services of members of the State Bar by providing for innovative development of programs for the education, training, certification and use of certified attorney assistants.

[6202. As used in this article:

[(a) "Board" means the Board of Governors of the State Bar.

[(b) "Approved program" means any program for the education and training of certified attorney assistants which has been formally approved by the board under standards to be adopted by the board.

[(c) "Accredited institution" means an institution offering approved programs, which institution has been accredited by the board, under standards adopted by the board.

[(d) "Certified attorney assistant" means a natural person who has been certified by the board pursuant to this article.

[6203. (a) The board:

[(1) Shall establish criteria for certification of certified attorney assistants which shall include being of good moral character and passing an examination approved by the board;

[(2) Shall adopt standards for approved programs for the education and training of certified attorney assistants;

[(3) Shall have authority to accredit institutions offering approved programs; and

[(4) Shall establish procedures for recertification and for continuing education of certified attorney assistants.

[(b) In developing criteria for approved programs, the board shall give consideration to and encourage utilization of equivalency and proficiency testing and other mechanisms whereby credit is given for past education, experience and on/the/job training in law offices.

[(c) In accrediting institutions, the board shall take into consideration such criteria as the board may specify including, without limitation, the quality of the curriculum, facilities, and faculty, and shall issue certificates of accreditation to institutions meeting the standards adopted by the board.

[(d) The board, at such times as it deems necessary to determine compliance with purposes of this article, under rules and procedures established by the board, may review accredited institutions and approved programs and may withdraw approval of programs or accreditation or impose probation on any accredited institution not maintaining such standards.

[6204. The board may adopt rules, regulations and procedures, subject to the approval of the Supreme Court:

[(a) Authorizing certified attorney assistants to perform acts otherwise prohibited by Section 6126;

[(b) Governing the professional activities and conduct of certified attorney assistants;

[(c) Providing for discipline of certified attorney assistants, including but not limited to revocation or suspension of certification for violation of any rule, regulation or statute now or hereafter in effect.

[6205. Any person other than one who has been certified by the board who holds himself out as a "certified attorney assistant" or who uses any other term indicating or implying that he is a certified attorney assistant, is guilty of a misdemeanor.

[6206. The board may adopt and publish such rules and regulations and impose such fees pursuant to this chapter and such other fees and charges as are reasonably necessary to carry out the purposes of this article. The board shall issue an appropriate certificate to applicants who qualify under this article.

[6207. Nothing in this article shall be construed as affecting or impairing the disciplinary powers and authority of the Supreme Court or the State Bar in respect of conduct of members of the State Bar nor modifying the statutes and rules governing such conduct, except as expressly provided in this article.

[Amended in Assembly January 29, 1974. Amended in Assembly January 24, 1974. Amended in Assembly August 6, 1973. California Legislature—1973–74 Regular Session. Assembly Bill No. 1814]

INTRODUCED BY ASSEMBLYMAN BROWN, APRIL 26, 1973, REFERRED TO COMMITTEE ON GOVERNMENT ADMINISTRATION

An act to add Section 6032, and Article 11 (commencing with Section 6201) to Chapter 4 of Division 3 of the Business and Professions Code, relating to certified attorney assistants, and making an appropriation therefor

LEGISLATIVE COUNSEL'S DIGEST

AB 1814, as amended, Brown (Gov. Adm.). Certified attorney assistants.

Enacts the Certified Attorney Assistant Act.

Creates a certified attorney assistant board with three members appointed by Board of Governors of the State Bar, three by the State Judicial Council, and three by the Legislature, as specified.

Requires the certified attorney assistant board, with the approval of the Board of Governors of State Bar, to establish criteria for certification of attorney assistants, including standards for training programs and accreditation of educational institutions offering such programs.

Permits board, subject to approval of Board of Governors and Supreme Court, to adopt rules among other things, permitting certified assistants to perform legal services otherwise prohibited. Makes other provisions relating to such certified attorney assistants.

[Appropriates an unspecified amount to the State Controller for allocation and disbursement to local agencies for costs incurred by them pursuant to this act.] *Provides that no reimbursement nor appropriation is made by this act for costs incurred by local agencies.*

Vote: [⅔] majority. Appropriation: [yes] *no.* Fiscal committee: yes. State-mandated local program: [yes] *no state funding.*

The people of the State of California do enact as follows:

SECTION. 1. Section 6032 is added to the Business and Professions Code, to read:

6032. Nothing contained in this chapter shall preclude any person not an active member of the State Bar from serving as an employee of, assistant to, or certified attorney assistant to an active member of the State bar or a partnership composed of active members of the State Bar or a law corporation which has a currently effective certificate of registration from the State Bar. However, any person rendering such services must be under the control and supervision of an active member of the State Bar. A certified attorney assistant shall not, unless otherwise specifically authorized by this chapter or any rule or regulation established by the board of governors pursuant to this chapter, engage in any activity or conduct in violation of this chapter or any rule or regulation which the board of governors from time to time may establish under this chapter.

No compensation shall be paid directly to any person not a member of the State Bar by the client to whom the services are rendered except where such person is a permanent employee of the client and the compensation of such person for services rendered is with the consent of the member of the State Bar.

Any rules, regulations or procedures issued pursuant to subdivision (a) of Section 6204 defining acts which may be performed by a certified attorney assistant shall not be used to determine what acts are prohibited by Section 6126 for other persons.

Sec. 2. Article 11 (commencing with Section 6201) is added to Chapter 4 of Division 3 of the Business and Professions Code, to read:

Article 11. Certified Attorney Assistant Act

6201. As a means of assisting members of the State Bar to provide the public with quality legal services more efficiently, the Legislature intends to establish in this article a means by which men and women who have acquired specified skills can obtain recognition as certified attorney assistants. It is the purpose of this article to encourage the more effective utilization of the services of members of the State Bar by providing for innovative development of programs for the education, training, certification and use of certified attorney assistants.

6202. As used in this article:

(a) "Board of Governors" means the Board of Governors of the State Bar.

(b) "Certified attorney assistant board" means that board of nine persons appointed in the manner and for the term provided in Section 6209.

(c) "Approved program" means any program for the education and training of certified attorney assistants which has been formally approved by the certified attorney assistant board with the approval of the Board of Governors under standards adopted as hereinafter provided.

(d) "Certified attorney assistant" means a natural person who has been certified by the certified attorney assistant board pursuant to this article.

6203. (a) The certified attorney assistant board after public hearings and subject to approval of the Board of Governors shall:

(1) Establish and publish criteria for certification of certified attorney assistants which shall provide:

(A) That an applicant for certification pass an examination established by the certified attorney assistant board with the approval of the Board of Governors;

(B) That no applicant for certification shall be deemed unfit by reason of race, color, creed, sex, national origin, or social or economic status; and

(C) That no applicant for certification or certified attorney assistant shall be denied certification or have such certification suspended or revoked for lack of good moral character or moral turpitude for a criminal conviction, except when there has been a conviction of a criminal offense arising from conduct in the course of the operation of a business enterprise or in the course of one's previous employment, and such offense, occurred with five years before the date of application for certification or the date of certification, or if final discharge from parole or probation supervision arising from such an offense occurred less than three years before the date of application or certification, then the board may take such a conviction into consideration when deciding whether to certify an applicant or to suspend or revoke the certification of a licensee.

(2) Adopt and publish standards for approved programs for the education and training of certified attorney assistants;

(3) Establish and publish procedures for recertification and for continuing education of certified attorney assistants.

(b) In approving programs, the certified attorney assistant board and the board of governors shall give consideration to, and encourage utilization of, equivalency and proficiency testing and other techniques whereby credit is given for past education, experience and on-the-job training in law offices as well as the quality of the curriculum, facilities, and faculty. The certified attorney assistant board with the approval of the board of governors shall issue certificates of approval to such programs.

(c) The certified attorney assistant board shall review any approved program upon the consent of the Board of Governors, at such times as the former board deems necessary to determine compliance with the stated purposes of this article, pursuant to the rules and procedures established as herein provided, and may withdraw approval or impose probation on any program not maintaining requisite standards.

6204. The certified attorney assistant board after public hearing may adopt rules, regulations and procedures, subject to the approval of the Board of Governors and the Supreme Court:

(a) Authorizing certified attorney assistants to perform acts otherwise prohibited by Section 6126;

(b) Governing the professional activities and conduct of certified attorney assistants.

6205. The Board of Governors after public hearing may, subject to the approval of the Supreme Court, adopt rules, regulations and procedures providing for discipline of certified attorney assistants, including but not limited to revocation or suspension of certification for violation of any rule, regulation or statute now or hereafter in effect.

6206. Any person other than one who has been certified under this article who holds himself out as a "certified attorney assistant" is guilty of a misdemeanor.

6207. The certified attorney assistant board after public hearings and with approval of the Board of Governors may adopt and publish such rules and regulations and impose such fees upon certified attorney assistants, and institutions or persons seeking program approval pursuant to this article as are reasonable and necessary. License fees for certified attorney assistants shall not exceed twenty-five dollars ($25) per annum. The certified attorney assistant board with approval of the Board of Governors and the Supreme Court shall issue an appropriate certificate to applicants who qualify under this article.

6208. Nothing in this article shall be construed as affecting or impairing the disciplinary powers and authority of the Supreme Court or the State Bar in respect to conduct of members of the State Bar nor modifying the statutes and rules governing such conduct, except as expressly provided in this article.

6209. The certified attorney assistant board shall be composed of nine persons: three members to be appointed by the Board of Governors of which only two may be members of the State Bar; three members to be appointed by the Judicial Council of which only two may be members of the State Bar; three members to be appointed by the Legislature, two to be appointed by the Speaker of the Assembly and one to be appointed by the Senate Rules Committee, none of whom may be members of the State Bar and only two of whom may be persons engaged in paralegal work or be certified attorney assistants.

Members of the certified attorney assistant board shall be appointed for a term of three years. However, with respect to the three initial appointments make by each appointing body, one appointment shall be designated by the appointing body to be for a term of two years, one for a term of three years, and one for a term of four years, except that the appointee of the Senate Rules Committee shall be designated to serve for a term of four years. No person may be appointed to a successive term.

6210. The certified attorney assistant board shall, within 90 days of its first meeting, appoint an advisory committee or committees composed of representatives from the various diverse organizations utilizing paralegals. Representatives from urban and rural organizations shall be included, and special consideration shall be made to insure a suitable distribution of appointees with regard to age, sex, race and national origin. The functions of the advisory committee or committees shall include, but not be limited to, a review of the impact of examinations approved program standards, actual utilization certified attorney assistants and certification criteria with regard to exclusion of minorities and access to the profession by members of the communities being served. The advisory committee or committees shall also consider the impact of this act in providing more of the public with quality legal services and in promoting employment of certified attorney assistants. The advisory committee or committees shall periodically report its findings to the certified attorney assistant board and the California Legislature.

[SEC. 3. The sum of ——— dollars ($———) is hereby appropriated from the General Fund to the State Controller for allocation and disbursement to local agencies pursuant to Section 2231 of the Revenue and Taxation Code to reimburse such agencies for costs incurred by them pursuant to this act.]

Sec. 3. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to this section nor shall there be an appropriation made by this act because the Legislature recognizes that during any legislative session a variety of changes to laws relating to crimes and infractions may cause both increased and decreased costs to local governmental entities which in the aggregate, do not result in significant identifiable cost changes.

[Amended in Senate June 24, 1974, Amended in Assembly January 29, 1974, Amended in Assembly January 24, 1974, Amended in Assembly August 6, 1973, California Legislature 1973–74 Regular Session, Assembly Bill No. 1814]

INTRODUCED BY ASSEMBLYMAN BROWN, APRIL 26, 1973, REFERRED TO COMMITTEE ON GOVERNMENT ADMINISTRATION

An act to add Section 6032, and Article 11 (commencing with Section 6201) to Chapter 4 of Division 3 of the Business and Professions Code, relating to certified attorney assistants

LEGISLATIVE COUNSEL'S DIGEST

AB 1814, as amended, Brown (Gov. Adm.). Certified attorney assistants. Enacts the Certified Attorney Assistant Act.

Creates a certified attorney's assistant board with three members appointed by Board of Governors of the State Bar, three by the State Judicial Council, and three by the Legislature, as specified.

Requires the certified attorney assistant board, with the approval of the Board of Governors of State Bar, to establish criteria for certification of attorney assistants, including standards for training programs and accreditation of educational instructions offering such programs.

Permits board, subject to approval of Board of Governors and Supreme Court, to adopt rules among other things, permitting certified assistants to perform legal services otherwise prohibited. Makes other provisions relating to such certified attorney assistants.

Requires the board to appoint an advisory committee, as specified, and requires such committee to submit a written report to the board and the Legislature every two years.

Appropriates an unspecified amount from the General Fund to the Certified Attorney Assistant Board for specified expenditures.

Provides that no reimbursement nor appropriation is made by this act for costs incurred by local agencies.

Vote: [majority] ⅔. Appropriation: [no] *yes*. Fiscal committees: yes. State-mandated local program: no state funding.

The people of the State of California do enact as follows:

SECTION 1. Section 6032 is added to the Business and Professions Code, to read:

6032. Nothing contained in this chapter shall preclude any person not an active member of the State Bar from serving as an employee of, assistant to, or certified attorney assistant to an active member of the State Bar or a partnership composed of active members of the State Bar or a law corporation which has a currently effective certificate of registration from the State Bar. However, any person rendering such services must be under the control and supervision of an active member of the State Bar. A certified attorney assistant [shall not, unless otherwise specifically authorized by this chapter or any rule or regulation established by the board of governors pursuant to this chapter, engage in any] *shall not engage in any* activity or conduct in violation of this chapter or any rule [or regulation which the board of governors from time to time may establish under this chapter.] *or regulation established under this chapter.*

No compensation shall be paid directly to [any] *such* person [not a member of the State Bar] by the client to whom the services are rendered except where such person is a permanent employee of the client and the compensation of such person for services rendered is with the consent of the *supervising* member of the State Bar.

Any rules, regulations or procedures issued pursuant to subdivision (a) of Section 6204 defining acts which may be performed by a certified attorney assistant shall not be used to determine what acts are prohibited by Section [6126 for other persons] *6125 for other persons. This section and Article 11 (commencing with Section 6201) are not intended to establish or change criteria for appearing before administrative agencies.*

SEC. 2. Article 11 (commencing with Section 6201) is added to Chapter 4 of Division 3 of the Business and Professions Code, to read:

Article 11. Certified Attorney Assistant Act

[6201. As a means of assisting members of the State Bar to provide the public with quality legal services more efficiently, the Legislature intends to establish in this article a means by which men and women who have acquired specified skills can obtain recognition as certified attorney assistants. It is the purpose of this article to encourage the more effective utilization of the services of members of the State Bar by providing for innovative development of programs for the education, training, certification and use of certified attorney assistants.]

6201. It is the intent of the Legislature in enacting this article to promote and encourage the delivery of more efficient, comprehensive and quality legal services to California residents by:

(a) Encouraging the development of new career opportunities consistent with provision of these services;

(b) Encouraging more efficient utilization of services of members of the State Bar;

(c) Encouraging innovative development of programs for the education, training, certification and use of certified attorney assistants; and

(d) Extending public recognition to persons who have certified attorney assistant skills.

6201.5. This article shall be known and cited as the Certified Attorney Assistant Act.

6202. As used in this article:

(a) "Board of Governors" means the Board of Governors of the State Bar.

(b) "Certified attorney assistant board" means that board of nine persons appointed in the manner and for the term provided in Section 6209.

(c) "Approved program" means any program for the education and training of certified attorney assistants which has been formally approved by the certified attorney assistant board with the approval of the Board of Governors under standards adopted as hereinafter provided.

(d) "Certified attorney assistant" means a natural persons who has been certified by the certified attorney assistant board pursuant to this article.

(e) "Public hearing" means a hearing in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

6203. (a) The certified attorney assistant board after conducting public hearings *in the Cities of San Francisco, Los Angeles, Sacramento and Fresno* and subject to approval of the Board of Governors shall:

(1) Establish and publish criteria for certification of certified attorney assistants which shall provide:

(A) That an applicant for certification pass an *a job-functions-related* examination established by the certified attorney assistant board with the approval of the Board of Governors. *In the development of such examination the certified attorney assistant board and the Board of Governors shall utilize whenever feasible equivalency and proficiency testing;*

(B) That no applicant for certification shall be deemed unfit by reason of race, color, creed, sex, national origin, or social or economic status, *age citizenship, or physical or mental handicap, except as such physical or mental handicap adversely affects the ability to perform the function of the certified attorney and assistant;* and

[(C) That no applicant for certification or certified attorney assistant shall be denied certification or have such certification suspended or revoked for lack of good moral character or moral turpitude for a criminal conviction, except when there has been a conviction of a criminal offense arising from conduct in the course of the operation of a business enterprise or in the course of one's previous employment, and such offense, occurred within five years before the date of application for certification or the date of certification, or if final discharge from parole or probation supervision arising from such an offense occurred less than three years before the date of application or certification, then the board may take such a conviction into consideration when deciding whether to certify an applicant or to suspend or revoke the certification of a licensee.]

(C) That an applicant for certification as a certified attorney assistant may be denied certification, or the certificate of a certified attorney assistant may be revoked or suspended on the ground of lack of good moral character but only after due notice and hearing resulting in written specific findings on which the determination was based. For the purpose of this article, lack of good moral character shall be defined as having lack of good moral character shall be defined as having

(i) Been convicted of a crime; or

(ii) Done any act involving dishonesty, fraud, or deceit with the intent to benefit himself or another, or injure another;

(iii) Done any act which if done by a certified attorney assistant contrary to rules, regulations, and procedures promulgated pursuant to Section 6205 would be grounds for suspension or revocation of certification.

(iv) Knowingly made a false statement of fact required to be revealed in an application for certification.

Subparagraphs (i), (ii) and (iv) shall be applicable only if the crime or act or false statement is substantially related to the functions and duties of the job for which certification is sought and the crime occurred within five years before the date of application for certification, or final discharge from a correctional institution or final discharge from parole or probation supervision arising from such an offense occurred within three years of the date of application for certification.

The Certified Attorney Assistant Board, under the provision of this code and pursuant to the provisions of subdivision (a), shall develop specific criteria to aid in determining whether a crime or act or false statement is substantially related to the functions and duties of the job for which certification is sought or received and any denial, suspension or revocation of certification shall be based only on the specific criteria developed by the Certified Attorney Assistant Board.

(2) Adopt and publish standards for approved programs for the education and training of certified attorney assistants;

(3) Establish and publish procedures for [recertification] *reapplication* and for continuing education of certified attorney assistants.

(4) Have the authority to establish and publish procedures for recertification of certified attorney assistants.

(b) In approving programs, the certified attorney assistant board and the [board of governors shall give consideration to, and encourage utilization of] *Board of Governors shall utilize, whenever feasible,* equivalency and proficiency testing and other techniques whereby credit is given for past education, experience and on-the-job training [in law offices] as well as the quality of the [curriculum, facilities] *course content,* and faculty *or training staff.* The certified attorney assistant board with the approval of the [board of governors] *Board of Governors* shall issue certificates of approval to such programs.

(c) The certified attorney assistant board shall review any approved program upon [the consent] *its own initiative or at the request* of the Board of [Governors, at such times as the former board deems necessary] *Governors* to determine compliance with the stated purposes of this article, pursuant to the rules and procedures established as herein provided, and may withdraw approval or impose probation on any program not maintaining requisite standards.

6204. The certified attorney assistant board after public hearing may adopt rules, regulations and procedures, subject to the approval of the Board of Governors and the Supreme Court:

(a) Authorizing certified attorney assistants to perform acts otherwise prohibited by Section [6126] *6125 and regulating the conduct of a certified attorney assistant in the performance of duties authorized pursuant to this section and regulations promulgated thereunder;*

(b) Governing the professional activities and conduct of certified attorney assistants *in their capacity as certified attorney assistants.*

(c) Except as provided in this section and in Sections 605 and 6206, nothing in in this article shall be construed to prohibit or authorize regulation of the activities of the persons engaged in conduct not prohibited by section 6125 of this code.

6205. The Board of Governors after public hearing may, subject to the approval of the Supreme Court, adopt rules, regulations and procedures providing for discipline of certified attorney assistants, including but not limited to revocation or suspension of certification for violation of any rule, regulation or statute now or hereafter in effect.

6206. Ay person other than one who has been certified under this article who *knowingly* holds himself out as a "certified attorney assistant" is guilty of a misdemeanor.

6207. The certified attorney assistant board after public hearings and with approval of the Board of Governors may adopt and publish such rules and regulations and impose such fees upon certified attorney assistants, and institutions or persons seeking program approval pursuant to this article as are reasonable and necessary. [License fees] *Fees* for certified attorney assistants shall not exceed [twenty-five dollars ($25)] *fifty dollars ($50)* per annum. The certified attorney assistant board with approval of the Board of Governors and the Supreme Court shall issue an appropriate certificate to applicants who qualify under this article.

6208. Nothing in this article shall be construed as affecting or impairing the disciplinary powers and authority of the Supreme Court or the State Bar in respect to conduct of members of the State Bar or modifying the statutes and rules governing such conduct, except as expressly provided in this article.

6209. The certified attorney assistant board shall be composed of nine persons: three members to be appointed by the Board of Governors of which only two may be members of the State Bar *and the other one shall be a public number;* three members to be appointed by the Judicial Council of which only two may be members of the State Bar *and the other one shall be a public member;* three members to be appointed by the Legislature, two to be appointed by the Speaker of the Assembly, *both of whom shall be persons engaged in paralegal work or be certified attorney assistants or persons engaged in the training of paralegals or certified attorney assistants,* and one *public member* to be appointed by the Senate Rules Committee, none of whom may be members of the Senate Bar and only two of whom may be persons engaged in paralegal work or be certified attorney assistants.

Members of the certified attorney assistant board shall be appointed for a term of three years. However, with respect to the three initial appointments [make] *made* by each appointing body, one appointment shall be designated by the appointing body to be for a term of two years one for a term of three years, and one for a term of four years, expect that the appointee of the Senate Rules Committee shall be designated to serve for a term of four years. No person may be appointed to a successive term.

6210. The certified attorney assistant board shall, within 90 days of its first meeting, appoint an advisory committee or committees composed of representatives from the various diverse organizations uitlizing paralegals. Representatives from urban and rural organizations shall be included, and special consideration shall be made to insure a suitable distribution of appointees with regard to age, sex, race and national origin. The functions of the advisory committee or committees shall include, but not be limited to, a review of the impact of examinations approved program standards, actual utilization certified attorney assistants and certification criteria with regard to exclusion of minorities and access to the profession by members of the communities being served. The advisory committee or committees shall also consider the impact of this act in providing more of the public with quality legal services and in promoting employment of certified attorney assistants. The advisory committee or committees shall periodically report its findings to the certified attorney assistant board and the California Legislature.

The advisory committee or committees created by the Certified Attorney Assistant Board shall have a none-years term and shall thereafter be terminated at any time by a vote of two-thirds of the members of the Certified Attorney Assistant Board.

An advisory committee shall submit a report in writing to the Certified Attorney Assistant Board and the Legislature at least every two years. The report shall include such information and opinions or recommendations as the Certified Attorney Assistant Board has requested in the initial appointment of the advisory committee as well as such other relevant comments as the committee believes will further the purpose of the Certified Attorney Assistant Act.

6211. (a) Each member of the Certified Attorney Assistant Board and advisory committees shall receive a per diem of twenty-five dollars ($25) for each day actually spent in the discharge of official duties, and shall be reimbursed for traveling and other expenses necessarily incurred in the performance of such duties. Such payments in each instance shall be made only from the fund from which the expenses of the agency are paid and shall be subject to the availability of money in that fund.

(b) The sum of ——— dollars ($———) is hereby appropriated, without regard to fiscal year, from the General Fund to the Certified Attorney Assistant Board for expenditures required in fulfilling the board's powers and duties.

When revenues received by the board from certification fees under the Certified Attorney Assistant Act are sufficient, the board shall repay to the General Fund the revenues allocated therefrom to the board.

SEC. 3. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to this section nor shall there be an appropriation made by this act because the Legislature recognizes that during any legislative session a variety of changes to laws relating to crimes and

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infractions may cause both increased and decreased costs to local governmental entities which in the aggregate, do not result in significant identifiable cost changes.

APPENDIX No. 3

[The New York Times, Sunday, Oct. 28, 1973]

STUDY PANEL URGES CURB ON GROUPS THAT CONTROL ADMISSION TO PROFESSIONS

(By Evan Jenkins)

WASHINGTON, Oct. 27.—A Federal study group on education urged today that the Government "adopt a more vigilant anti-trust posture toward professional and occupational groups that exert control over who works in their fields of activity."

Acknowledging that "standards of training and competency in many occupations are essential for consumer protection," the group's report adds. "All too often, however, such stndards become the means for limiting entry to careers."

That happens, the report asserts, with practitioners ranging from doctors and lawyers to "morticians and dancing school instructors."

The call for efforts to curb such control is one of more than 30 recommendations in the final report of the study group, which was assigned by the Department of Health, Education and Welfare in 1971 to examine the Federal role in higher education.

The group, headed by Frank Newman, director of university relations at Stanford, also made the following proposals in the area of student aid and financing:

A nonmilitary "G.I. bill for community service" that would provide Federal aid for education to those who have served in selected national, regional and local programs that are deemed to be of benefit to society.

Increased emphasis on aid to individual students and less to institutions, a controversial concept already espoused by the Government and such groups as the Carnegie Commission on Higher Education.

Efforts to narrow the tuition gap between public and private colleges to improve the competitive position of the private institutions, another proposal made frequently of late and sharply debated.

Throughout the report, the emphasis is on flexability and competition in higher education—diversity in the kinds of schooling that society requires and the Government should encourage; openness, of ease of access, to schools regardless of age or economic status; incentives for change to meet society's needs, with the "harsh but necessary concomittant" that some institutions may die in the process because they are ineffective.

It is in extending the doctrine of "openness" beyond school to the world of work that the study group assails the control exercised by occupational groups over career opportunities for individuals.

Speaking of the proliferation of licensing and certification laws over the last three decades, it declares:

"Such laws are sought not only to provide for regulation of entry into the field, but to provide the group in question with a primary role as regulators, so C.P.A.'s sit on the state board of public accountants, and the architect, license future architects, all in the name of the state.

"The standards employed ofen bear only a tenuous relationship to the competencies needed for successful practice and instead often reflect more the profession's image of itself."

A parallel exercise of control can be found in the accreditation of institutions, the report says. It notes as one example that 39 states require that persons taking bar exams be graduates of a law school accredited by the American Bar Association, "which, not coincidentally, also writes the exam and evaluates the 'moral fitness' of the prospective members of the bar."

FOR CLARIFICATION

As a beginning of "a more vigilant antitrust posture relative to the activities of the organized professions," the report calls for clarification of law and regulatory responsibility among arms of government concerned with professional groups.

It also urges an investigation of requirements for graduation from professionally accredited institutions and of "requirements unrelated to the proficiencies needed to protect consumers and successfully practice one's profession."

Asked at a press briefing yesterday if he could foresee government lawsuits against occupational organizations, Mr. Newman replied, "Yes, although that would be a long way down the road."

Besides Mr. Newman, the study group's members were Robert Andringa and Christopher Cross of the minority staff of the House Education and Labor Committee; William Cannon of the University of Chicago; Don Davies, a former Office of Education official and now a senior research fellow at Yale; Russell Edgerton of the Government's Fund for the Improvement of Postsecondary Education; Martin Kramer of the Health, Education and Welfare Secretary's office and Bernie Martin of the National Institute of Education.

THE LEGAL CLINIC OF JACOBY & MEYERS,
Los Angeles, Calif., July 15, 1974.

Senator JOHN TUNNEY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR TUNNEY: I am the Vice-President of the American Paralegal Association, and Deborah Larbalestrier and Linda Bever, our Executive Director and President, have shown me a letter you sent to them concerning your study on making legal services more available to the public.

I do not know if you have heard of The Legal Clinic of Jacoby & Meyers. I have been working here as a paralegal counselor, and during that time, have been extremely happy with the way they are able to make their services available to the public at rates that are much lower than that of the average attorney in Los Angeles County.

Our firm woud not be able to offer the services that it does at such low prices were it not for strong utilization of paralegals. The paralegals interview clients, draft documents and handle the follow-up work on the files before each case goes to Court. This way, we save quite a bit of time for the attorneys, which saves a lot of money for the firm.

The concept of The Legal Clinic is to help people who do not qualify for Legal Aid services but can not afford a private attorney. We charge $100.00 for an extremely simple divorce. The normal fees charged for this in Los Angeles are $350–$400.00. We charge 25%, rather than one third, for personal injury cases. We also make sure to do a thorough job and be fair with our clients. I have been working for attorneys for nine years next month, and this is the first firm I have worked for that does not let clients sign documents in blank and does not let the lay staff sign the client's or attorney's name on documents to save time. There is also less pressure on the client to retain us when he comes in for his first appointment. With every other firm I have worked for, a person can rarely escape the office without signing a retainer agreement. We are only too happy to have them think about it for a few days before deciding what they want to do after they have been advised of their rights, what courses of action they can take, and how much it will cost them.

Naturally, the attorneys in the community are none too happy about the competition offered by this firm. Messrs. Jacoby and Meyers are having a disciplinary hearing on September 24 with the State Bar of California. They are being charged with advertising, which is aganst our code of ethics. The firm has never advertised, but it had a lot of publicity when it opened, due to the unusual nature of the practice. Many other attorneys in the Los Angeles area have granted interview to the press and appeared on the news for various reasons and have not been subject to disbarment or suspension, but then they charge what other attorneys charge, so that is apparently not considered advertising by the State Bar of California.

As you know, there is a bill now in our State Legislature which will certify paralegals to perform duties which now constitute the practice of law. The reason for the bill is to provide quality legal services to more people for less money. The bill is excellent, and our association has supported the bill vigorously. However, I think it is a shame that the State Bar is sponsoring a bill with this intent in mind, but tries to put men out of business because they are carrying through the same intent. This sets a terrible example for attorneys who want to carry on a practice to help people for reasonable prices and utilize paralegals. We had hoped that the concept of the Legal Clinic would be carried out by many attorneys after passage of the bill.

If your Committee would like any further information on the Clinic concept of practicing law and the utilization of paralegals to carry out said concept, let me know what information you would like to have, and I would be happy to furnish it. The American Paralegal Association thanks you for the interest you have taken in our profession and our goals of providing legal services to the public.

Sincerely,

FRANCES LONGMIRE.

CHICAGO ASSOCIATION OF PARALEGAL ASSISTANTS,
Chicago, Ill., July 18, 1974.

Hon. JOHN V. TUNNEY,
Chairman, Subcommittee on Representation of Citizen Interests, Dirksen Office Building, Washington, D.C.

DEAR SENATOR TUNNEY: It has been said that while the rich can afford private fees and the poverty-stricken are eligible for Legal Aid, the middle and low-income levels have the least access to legal counsel. The legal profession has a continuing obligation to seek ways and means of furnishing quality legal services to all segments of the public at reasonable cost. Attorneys over the years have spent more and more time on paperwork and other routine matters which do not involve legal judgment. Such work can be and in ever-growing numbers is being performed by trained non-lawyer personnel (often called paralegals, legal assistants, or attorney assistants). By following the basic management principle of delegating down as far as possible, efficient and effective use of such personnel frees the attorney to meet the demands of the public for his most valuable commodity—his time and advice. It also results in lower cost to his client in that, while this work is skillfully and efficiently accomplished, paralegal time is billed at a fraction of the cost of attorney time.

You specifically pose the following questions: What effect, if any, would accreditation of training programs and licensing of individuals have on the developments in the paralegal area? Should institutions which train paralegals be accredited?- Who should control the accrediting if it is done? Should individual paralegals be licensed? Who should control the licensing if it is done? Because certification/licensing and accreditation have only recently become an issue in Illinois, CAPA's Committee on Standards has now turned its attention to these very questions. It has been reviewing proposals and advisory opinions of committees of various state bar associations as well as books, articles and the proposed California legislation dealing with such questions. The general feeling is that many of the foregoing have the clear intent of restricting in a fundamental way the kinds of service which paralegals are now competently and properly rendering to the legal profession (and therefore would have the effect of increasing the cost and decreasing the availability of these services to the general public). Some also seem to contemplate severely limited avenues of entrance into the paralegal profession. Still others, while possibly trying to guard against the idea of total self-regulation, seem to have resorted to the other extreme of disallowing paralegals a meaningful voice in the determination of their own professional destinies. A formal policy statement dealing with these issues is scheduled to be completed by the Committee on Standards this fall. If at that time your Subcommittee is still in session, it will be available for submission.

Attached is the recently published Report of the Committee on Standards entitled "The Legal Assistant: A Self-Statement". This report is based on the results of an in-depth survey conducted in the Chicago area in September of 1973. It covers education, paralegal training, working conditions, opinions on certification/licensing, areas of specialization, including probate, real estate, litigation, corporate, employee benefits, trademarks and copyrights, and the generalist. This report will familiarize you with the functions now being performed by paralegals in the Chicago area.

Very truly yours,

SHEILA J. MOOLENAAR, *President.*

THE LEGAL ASSISTANT: A SELF-STATEMENT

(By The Commitee on Standards, The Chicago Association of Paralegal Assistants)

The Committee on Standards wishes to express its appreciation to the following people:

1. The Illinois Institute for Continuing Legal Education, especially Mr. George A. M. Heroux, for assistance in the distribution of the Survey;
2. The countless members of CAPA who donated miscellaneous time and services to the activities of the Committee;
3. Ms. Phyllis Koral, who assisted in the final preparation of this report; and
4. The law firms and corporations with which the Committee's members are associated, without whose cooperation this report would not have been possible.

I. INTRODUCTION

The following report on legal assistants has been compiled and written by the Committee on Standards of the Chicago Association of Paralegal Assistants (CAPA). It is an attempt by working legal assistants to define who they are and what they do, and to provide concrete information that will aid in consideration of standardization and certification of this relatively new profession in the legal field. The report is based on an analysis of responses obtained from approximately 225 Surveys distributed randomly to working legal assistants.

The Chicago Association of Paralegal Assistants had its beginning as small, relatively informal gatherings of legal assistants in the fall of 1972. As the profession and interest in it has grown, so has CAPA. It was incorporated as a not-for-profit Illinois corporation in September, 1973. Its membership as of April 15th, 1974, numbers 153: 138 regular dues-paying members (full-time legal assistants working in the State of Illinois) and 15 associate dues-paying members (persons enrolled in formal courses of study in Illinois which lead to a position as a legal assistant). Additionally, any person, firm, or institution interested in supporting the purposes of CAPA may become a sustaining member upon payment of annual dues; as of April 15th, 1974, CAPA has 12 such sustaining members.

The Committee on Standards is one of several standing committees of the Chicago Association of Paralegal Assistants. It was established to define who and what the legal assistant is now, and to provide concrete information for the definition and/or standardization of the legal assistant in the future. The Committee's members work in the areas of law represented in the Survey: that is, probate, real estate, litigation, corporate, employee benefit plans, and trademarks and copyrights. As a whole, the Committee compiled Sections I through V of the Survey (see Appendix A), dealing with general backgrounds and working conditions of legal assistants. Subcommittees composed of legal assistants specializing in each area then compiled Sections A through F (see Appendix A), attempting to formulate questions pertinent to job definitions for each specialty.

In some specialties, the legal assistant works only in certain stages of a proceeding. Where possible, therefore, questions in Sections A through F of the Survey were arranged in sequence to indicate at what point the legal assistant is introduced into a proceeding and at what point he or she ceases to participate.

In the summer of 1973, fifteen (15) sample surveys were distributed at a large Chicago law firm to test both form and content of the Survey. Ample room was provided for personal opinions. The results of these samples have not been included in this report (unless otherwise indicated) because the anonymity of the participating firm could not be guaranteed. (See Appendix C.)

In the fall of 1973, approximately 225 Surveys were distributed to legal assistants working in and around Chicago. To insure random distribution of the Survey, Standards Committee members called all Chicago law firms listed in the 1973–1974 edition of Sullivan's Law Directory showing more than five attorneys, as well as major banks, corporations, and government agencies. Additionally, Surveys were distributed upon request to legal assistants in attendance at the "Seminar on How to Use Non-Lawyers," presented by the Illinois

Institute for Continuing Legal Education in conjunction with CAPA in October, 1973.

The Surveys were returned anonymously. Of the 225 questionnaires distributed originally, approximately 95 of those returned (plus the 15 sample surveys) were able to be tabulated.

II. GENERAL INFORMATION

The results of this section are based upon the responses contained in ninety-five (95) Surveys, returned anonymously by mail to the Committee on Standards. While certain similarities of background and experience may be noted, it seems clear from these results that there is by no means a stereotypical legal assistant.

The vast majority of the responding legal assistants (84.2%) ar female; 9.5% are male, and 6.3% did not respond. They range in age from 20 to "over 40," though 77.9% cluster in an age range of from 20 to 30 years of age.

A. *Education*

Only 3.2% of the legal assistants responding have only a high school diploma; of these, nearly all have had some additional non-college training (business college, secretarial school, or technical training). An additional 15.7% attended college but did not receive a bachelor's degree. (2.1% received associate or junior college degrees.) Of those respondents not having a four-year college degree, 91% have had either formal training or previous related experiences: 14.7% have had formal paralegal training of some sort, and 76% have had previous experience. Only 2.1% of responding legal assistants, therefore, lack formal training, previous related experience, and a college degree.

The remaining 81.1% of responding legal assistants hold at least a four-year college degree. More than half of all those responding (51.6%) holds the Bachelor of Arts degree (in such areas as history, political science, sociology, social work, and economics) or the Bachelor of Science degree (mostly in marketing, accounting, business administration, mathematics, and political science.

Of those respondents not yet accounted for, 7.4% have some graduate school; 5.3% have a graduate degree (5 Masters degrees); and 9.5% are currently enrolled in law school. Additionally, of the 90 persons responding to this question (and excluding the 9.5% now enrolled in law school), 20% are currently pursuing further education at all levels from technical and undergraduate education through the Ph.D.

B. *Paralegal training*

Forty percent (40%) of legal assistants responding to the Survey have had formal paralegal training. Thirty percent (30%) attended the Institute for Paralegal Training (Philadelphia, Pennsylvania). The remaining 10% received formal training at such places as the Paralegal Institute (New York City), William Rainey Harper Junior College, governmental agencies, and a major Chicago bank. Of those persons having formal paralegal training, 77.5% believe it to have been necessary to the performance of their jobs. Of those remaining, 10.0% think such training unnecessary; and 12.5% are unsure or have no opinion.

Sixty percent (60%) of the total respondents have had no formal paralegal training. Of these, 46% believe such training to be necessary or useful; 31% believe it to be unnecessary, and 23% are unsure or have no opinion.

Of those having no formal training as legal assistants, however, 57% do have prior related work experience. Nearly two-thirds of those having prior related work experience (and 15.8% of all respondents to this Survey) began as legal secretaries. Many who began as legal secretaries have had lengthy experience in that position (e.g., 14, 16½, 10 and 12½ years). Other related experience includes work as a tax and audit staff accountant, university and government financial administrator, administrator for the American Arbitration Association, legal investigator, research assistant for a municipal corporation, accountant's assistant, bank administrator (tax and probate department), and law clerk.

Of those expressing an opinion regarding the necessity of paralegal training ([illegible] respondents), a majority favored it to some extent.

Those expressing an unqualified opinion in favor of formal training offer such reasons as:

> "Provides better general instruction and background, and allows more flexibility. Informal training . . . may tend to be more specialized and limited to the needs of the firm."
>
> "One needs to know theory, as well as technical knowledge."

> "Aids the reputation of the profession; it can assume a certain standard."
>
> "Employers now need trained help; offices do not have time to train on-the-job."
>
> "Less training would be required by an attorney; a position would be immediately more responsible."

A number of those offering opinions in favor of training of some sort have qualified those opinions:

> "In general, yes, because on-the-job training may be simplified. The training required, however, depends on the nature of the job and the amount of college, experience, and educational background."
>
> "Formal training familiarizes the paralegal with legal terms and general matters in a specific field; particulars must be taught by each law firm, as they vary."
>
> "A frame of reference is required, even if training in specific tasks is not."
>
> "The mechanics of the job are easy to pick up; but some law courses would be helpful."

A significant number of respondents (35.8%) were unsure about the need for formal paralegal training:

> "Depends upon the area [of specialization], level of intricacy and difficulty of work, the use to which the paralegal is to be put, and the eventual degree of responsibility the paralegal will be given . . ."
>
> "Not necessary with a college degree in a related field, but suggested if no college degree or one in a totally unrelated field."
>
> ". . . [U]ntil the jobs we perform are better defined, I would say it is not necessary for a paralegal position."
>
> "One should have the option to train within the firm or as an apprentice."
>
> "Training should include on-the-job training for someone already familiar with legal procedures . . ."

Some 80.0% of the respondents do not see the position of legal assistant as an intermediate step to becoming a law office and/or personnel manager. Of the 10.5% who see management of some sort as a future possibility, opinions expressed suggest that the experience as a legal assistant is often seen as a contribution to job expertise in areas outside the law; as, for example:

> "I'll form my own company."

Many legal assistants, however, do perform some supervisory duties in addition to actual paralegal duties (see Areas of Specialization):

> "I do not see this [office management] for the future as a full-time position, but do so indirectly now."

C. Working conditions

Although only 65.3% of legal assistants began their work at law firms (others started in banks, private corporations, and governmental agencies), as of the summer of 1973, 94.7% of the Survey respondents were employed by law firms.

Legal assistants appear to be employed in almost every size law firm in and around Chicago. The size of the legal assistant staff is not necessarily proportional to the total size of the firm in which it operates. Those responding to this Survey who currently work in law firms appear to be employed by a spectrum of firms varying in size from fewer than 10 attorneys to over 150 attorneys. (*Note:* The 15 sample Surveys were distributed in a firm of over 150 attorneys and have not been included in this tabulation. (See Appendix B). The vast majority (18.1%) feels that the attitude toward the legal assistant among the lawyers in their firms is generally favorable; only 5.3% feel it to be unfavorable.)

A large 84.2% majority of legal assistants had held only one such position as of the time of this Survey. Only 10.5% had changed jobs once, and 3.2% twice. (None had changed jobs more than twice at that time.) This is, in part, due to the relative newness of the profession; some 87.4% of respondents to this Survey had worked fewer than 3 years as of last summer. The results suggest, however, that the legal assistant does not take this position unseriously, jumping frivolously from one staff to another. This is further borne out by the fact that nearly half of all legal assistants responding to this Survey consider the position to be a long-range career:

> "Yes, I believe I can be of continuing service and be worth more, and more helpful, as time goes on."
>
> "My job responsibilities have steadily increased since I began almost three years ago. The attorneys have grown to trust my thinking . . . as responsible and logical. . . ."

> "I perform functions . . . normally done by law clerks in some firms; clerks are temporary employees, while I am permanent."

Another 4.3% are, as yet, undecided as to their futures as legal assistants. Most feel the decision will depend upon the ultimate definition and recognition given to the job:

> "Provided salary increases are sufficient to maintain a family, and if paralegals are accorded status as professionals, I will stay."

Of those who do not consider the position of legal assistant to be a long-range career possibility, most cite dissatisfaction with a lack of possibilities for advancement and continuingly increased responsibilities within the job. Although a porton of these look to law school as a possible alternative to this, many of the most qualified are considering leaving the legal world altogether as of result of what they see to be significant limitations of this profession.

Assignments are distributed to the legal assistant in a variety of ways according to Survey results, although none receives such assignments from a clerical supervisor or other non-legal personnel. Assignments to 27.4% of legal assistants come from the attorney in charge of associate assignments; and another 18.9% legal assistants receive assignments from an attorney specifically in charge of paralegal assignments, who often works in conjunction with the associates' assigning attorney. A significant percentage (38.9%) receives assignments directly from individual attorneys, while 6.4% receive them from an attorney or group of attorneys to whom they are specifically assigned as legal assistants.

At least 80.0% of respondents to the Survey bill clients for their services. Although fees for paralegal services appear to vary widely (and are often unknown to the legal assistant), on the average they bill slightly more than 6 hours per day to clients and/or intra-office duties.

Some 86.3% of responding legal assistants work independent of direct supervision, but under the general direction of an attorney or group of attorneys. Completed assignments appear always to be reviewed by an attorney, according to Survey data. Most legal assistants appear to enjoy this relative independence, and 77.9% feel that they are encouraged to use their own initiative before submitting their final work product for review.

Although 43.2% of the responding legal assistants believe that their overall work performance *may* currently be evaluated formally on a regular basis, an overwhelming 88.4% believe it *should* be so evaluated, in the same way that work of associates and other professional persons is evaluated.

(NOTE: No discussion of salary has been included in this report, despite the lengthy portion of the Survey devoted to it, for the following reasons:

1. Inconsistent policies regarding overtime, bonuses, and other remuneration made accurate comparison difficult, if not impossible.
2. Because many firms reviewed salary at the time the Survey was being returned, or shortly thereafter, it was felt that any statement regarding salary based on pre-review data would inaccurately reflect current compensation levels.
3. An attempt to compare in some general ways the compensation of the legal assistant with other persons of similar training and experience could not be completed because the most recent statistics available from the Bureau of Labor Statistics dated from 1969, or somewhat prior to the time most legal assistants began in such positions.

It is the Committee's hope that sub-reports, devoted to more specific questions such as compensation, will be compiled and published in the future. Detail in the area of salary was, however, deemed impossible and irrelevant to this report, for now.

D. Certification and/or licensing

Of the 95 Surveys returned, a significant majority (64.2%) of legal assistants believes the legal assistant should be certified in some way. The respondents are widely divided, however, as to what institutions (or combination of institutions) should do such certification. (See Appendix C, Table 2). A majority agree however that the American Bar Association and/or a State bar association should participate in such certification.

Opnioins in favor of certification include:

> "Certification would give the profession the professional status and respect it warrants; and secondly, it would protect the professional reputation of paralegals from disrepute brought on by incompetent persons calling themselves 'paralegals'."

> "[Certification] would foster professionalism and have great impact on other States now considering the definition and use of paralegals."
>
> "[Certification] would help to foster continuing expansion of responsibilities and growth into a career profession."
>
> "To give us all (firms and paralegals) some sense of identity, and to insure that only qualified and capable people will be paralegals, thereby supporting the image of the paralegal as a responsible and able person."

A substantial number of respondents to the Survey (358%) is, however, either undecided about or opposed to such certification of the legal assistant. Opinions expressed in this regard include:

> "Fields of specialization are so numerous that general licensing would be impractical."
>
> "Paralegals should not be licensed until the profession is fully developed, defined, and *accepted* by the legal community—otherwise, the whole idea of professionalism may be killed by conservative restrictions."
>
> "Paralegals should not be certified at present. Many paralegals are now overqualified for the work they do. The present job market created the paralegal. If we set rigid standards at this point, we will not let the natural level of paralegal competence be established by itself. As paralegals are a new thing, this will take several more years to develop. Creating artificial standards at this point will cause discontent among both those qualified to do the work but unable to meet the standards, and those too highly qualified for the work they are given to do."

III. AREAS OF SPECIALIZATION

The following portion of this report has been divided into seven (7) sections. The first six (6) sections correspond to the areas of specialization in which, according to the membership list of the Chicago Association of Paralegal Assistants, legal assistants in and around Chicago currently work. These areas are sections A through F of the Survey. In addition, a seventh category, the "Generalist," was created to provide for the legal assistant who works in three (3) or more of these specialty areas.

The results reported per section are taken from Surveys in which the respondent listed one area as a specialty to which he/she devotes most of his/her time and activities (rated as "3" on a sliding scale from "0—never performed" to "3—usually performed"). Some secondary areas of activity (listed as "1" or "2" on the sliding scale) are also indicated.

Within each area, each respondent was asked to rate various specific tasks on a scale of 0 to 3 as to (a) how often and with what emphasis she or he performs specific tasks at present; and (b) an experienced paralegal assistant hopes to perform those duties in the future. In each section below, the number of non-zero scores for each activity was counted for both present and proposed practice. An average of the non-zero scores was computed for each activity; these averages can be interpreted as weights of the relative emphasis on each duty. Since no attempt was made to determine the nature of the practice of the law firms with which the legal assistants are associated, or if there are divisions of labor within the areas described in the Survey, it is not possible to discern the meaning of a zero-response.

A. *Probate*

A total of sixteen (16) legal assistants responding to the Survey designated probate as their primary area of responsibility or "specialty." Their responses were tabulated to yield the following results. Another 7 legal assistants listed this specialty as one to which they devoted some portion of their time; these results are not included below.

Of the 16 respondents in this area, 13 had at least a bachelor's degree; of these, 3 have had some graduate school training, including 2 who have attended law school. Nine (9) of these persons have had formal paralegal training, including one (1) of the 2 who attended law school. Two (2) respondents are currently enrolled in courses of further education: one (1) in paralegal training and one (1) in graduate school.

All 3 of the remaining respondents have had some college. Of these, one (1) has also attended business college and has previously worked as a legal secretary for 14½ years. Only one (1) other respondent in this section indicates prior related experience: a college graduate who had worked in a bank probate and tax department.

Nine (9) of the respondents in the probate area indicate a formal paralegal training background (seven (7) at the Institute for Paralegal Training; one (1) at William Rainey Harper Junior College; and one (1) in a training program at a large Chicago bank). Each respondent showed an average of 3 accounting or bookkeeping courses and an average of 4 math courses. Bookkeeping, math and notarizing were indicated as useful skills in this job. Also, nearly every respondent in this area indicated frequent client contact by phone, letter and/or conference.

The majority of legal assistants who had formal probate training (6 out of 9 respondents) believes that it is necessary in the specialty; the remaining 3 are unsure or said it is not.

Of the 7 legal assistants in probate who were not formally trained, 3 believe such formal training might have been useful or necessary to the performance of their jobs; the remaining 4 said it is not necessary or are unsure. Of those legal assistants in probate who believe formal training to be unnecessary or who are not sure (7 respondents of the total of 15), all seem to feel that on-the-job experience plus a good background in mathematics would be sufficient training for the work they perform.

Better than two-thirds of the legal assistants in probate responding to this Survey indicate current performance in every one of the thirteen (13) task categories, with an average score of 2.44 of non-zero responses. Those assignments most frequently performed by legal assistants in probate include preparing court pleadings, individual inheritance and estate tax returns, inventories, valuing and transferring assets, preparing current and final accounts, and keeping estate accounting records.

This same proportion of respondents also indicates that the legal assistant in probate is usually brought in to work on the estate at the initial stages and his/her duties are contiguous. A few state, however, that they rarely work through an entire estate and are unhappy with this segmentaiton of the work.

Only eleven (11) respondents completed the future section as to job expectations. However, there is an increase in the average response to 2.63. Responses in the following categories indicate future expectations of greater frequency of task performance: drafting wills and trust instruments, preparing estate planning computations and organizing the results of the same into summaries for the client, obtaining information directly from the client, filing forms with the Clerk of the Probate Court, and keeping estate accounting records.

There appears to be a strong correlation between formal training and/or several years of related work experience and the importance/complexity of tasks performed, such as preparing court pleadings and drafting wills and trust agreements. Diversity and frequency of task performance are related to formal training or three to four years work experience.

The most frequently used skill, listed by 13 out of 16 respondents, was client contact by telephone, letter, and/or conference (#15). Accounting was listed by 2 respondents as frequently used, and training and supervising of non-attorney staff (#13 & #14) was mentioned by 2 others.

The overall performance of 9 of the 16 respondents to this section is formally evaluated. Five (5) are unsure of such review, one (1) legal assistant says he/she is not formally evaluated, and one (1) did not respond. An overwhelming majority, 14 out of 16 respondents, believes their performance should be so evaluated, however.

Only 5 legal assistants in probate see their current position as a long-range career possibility. The remaining 11 do not or are unsure, citing unclear definition of their job responsibilities and potential for advancement as reasons for considering other positions. Many opinions cite a lack of job definition as a definite drawback to the profession, and 62.5% (as opposed to an overall response of 35.8%) believe some sort of certification to be necessary.

B. Real estate

Nine (9) legal assistants working in the field of real estate law responded to the survey. (Nine (9) also listed it as an area of secondary activity). Of these, 7 work for law firms, and 2 work for corporations. The size of the law firms varies, although there are not any respondents working in the smallest nor the largest firms. Three (3) respondents work in law firms which have 76–100 attorneys; two (2) work in law firms which have 26–50 attorneys; and two (2) work in law firms which have 10–25 attorneys.

Five (5) out of the 9 respondents attended the Institute for Paralegal Training in Philadelphia. One (1) respondent has a college degree and no related job experience or formal training. One (1) has a college degree and has been a legal secretary. The remaining 2 respondents have some college and have been legal secretaries. Six (6) of the 9 respondents favor formal training programs; four (4) of those 6 favoring formal training have completed such programs.

Three (3) of the responding legal assistants in probate do not see a paralegal position as a long-time career. They cite boredom, lack of room for creativity, and not enough potential for economic advancement as reasons for someday seeking another career. Two (2) of the respondents see the position as a long-time career; one of these qualified that statement by adding, "If the salary continues to increase." Two (2) respondents are undecided about their future as legal assistants.

The real estate section of the Survey was divided into six parts: purchase-sale transactions, lease matters, mortgage transactions, partnership matters, surveys and easements, and tax matters. The respondents work frequently in all areas except lease matters, although the majority expressed interest in working with lease matters in the future. The area in which the legal assistant most frequently works is purchase-sale transactions. Within this category, the majority enters the work at the stage of drafting the closing documents and follows through to the point of attending the closing. Four (4) of the respondents frequently accompany an attorney to the closing, and 3 often attend alone. The remaining 2 respondents rarely attend closings, but when they do so, they are accompanied by an attorney.

A large majority (8 out of 9 respondents) is often involved in the drafting of various documents, which will be discussed later in more detail. However, one (1) respondent's job is atypical, and most of her answers do not fit into the categories established in the Survey. She does not draft any documents for mortgage loans but examines them to determine errors and insufficiencies.

Eight (8) of the 9 respondents are usually involved with drafting deeds. Six (6) usually draft proration statements. Five (5) respondents frequently draft trust agreements and directions, and 4 usually draft beneficial interest assignments.

The majority rarely drafts contracts for purchase-sale transactions. Those who do draft them however do so more often for residential property than for commercial or industrial property.

Six (6) of the responding legal assistants are usually involved in drafting title insurance and Torrens forms. Seven (7) are usually involved in title clearance, and 5 frequently do tract searches.

Only one (1) respondent frequently works in most areas of mortgage transactions, although 2 others sometimes draft mortgages and notes. One (1) legal assistant sometimes drafts supplements, amendments, and modifications, security agreements, chattel mortgage documents, guarantees, and UCC statements.

Only one (1) respondent regularly drafts partnership agreements, certificates of partnership agreements, amendments to partnership agreements, and amendments to certificates of partnership agreements. None of the respondents drafts and files assumed name certificates regularly, although 3 respondents may do so on occasion. None of the Survey respondents computes profits or losses.

Surveys are frequently examined by 5 respondents, and one (1) drafts easements on a regular basis.

(3) With regard to tax matters, 4 out of 9 respondents check tax records. Three are often involved in the payment of general and special taxes.

Although many of the responding legal assistants who specialize in real estate law do not frequently work in some of the Survey categories, it must be pointed out that, at the time the Survey was distributed, 4 respondents had been working as legal assistants less than six months, 4 had been working six months to a year, and one (1) had been working two to three years.

C. Litigation

Of the 95 respondents to the Survey, 35 persons, or 36.8%, listed litigation as the area in which they "usually perform" the majority of their activities. (Another 4 listed it as an area in which they "sometimes perform.") The respondents were distributed among all sizes of firms from fewer than 10 to over 150 lawyers.

As among all legal assistants responding, 30 out of the 34 responding to the Survey are female (4 are male and 1 did not respond). Seventeen (17) consider the position a long-range career, 16 do not, and 2 are unsure or give no answer.

Only 3 legal assistants in litigation have only a high school diploma. Of these, 2 out of 3 have had some additional training in business college/secretarial school/technical training, and all 3 have had extended experience as legal secretaries. Three (3) of the remaining 32 respondents attended college but did not receive a degree; 2 of these 3 attended some business school in addition. All 3 of these persons also have had previous experience as legal secretaries, one (1) for over 16 years.

Of the remaining 29 out of 30 respondents, 15 have received a bachelor's degree only, 5 have had some graduate school, and 5 hold Master's degrees. Six (6) legal assistants in litigation are currently enrolled in law school.

Only 10 of the 35 respondents have received some sort of "formal" paralegal training for their current positions; 25 did not, or received such training on-the-job. They are about equally divided as to whether or not such training would be necessary or useful to the performance of their jobs in litigation: 17 said yes, and 18 said no or are undecided.

Of those 10 respondents who received formal paralegal training, 6 said they feel it has been useful to them in their careers; one (1) said it has not been, and 3 are unsure or gave no response. Of the 25 legal assistants in litigation not formally trained, 11 said they believe such training would be useful or helpful to them; seven (7) do not think so, and 7 are unsure or give no response.

Of those 4 who have had previous related work experience, only 2 have also had additional formal paralegal training. Of those without previous related work experience (21), 6 have had some formal paralegal training. Among the correspondents in this area who have had neither previous related work experience nor formal paralegal training, all have at least a bachelor's degree, and 6 have some graduate school, a graduate degree, and/or law school.

Most respondents seem to feel that a lack of training in this particular specialty may be less crucial than in others, since there is less work with forms and in procedural matters: "Not for litigation, but would be useful in other fields." A large amount of their work may be classified as research-oriented, as described in the table below:

TABLE A

	Average nonzero responses	
	Present	Future
1. Nonlegal research	2.39	2.75
3. Investigations and factual discovery	2.10	2.67
14. Bibliographical research	1.84	2.58
22. Interview of witnesses	2.00	2.69
24. Interview of experts and consultants	1.67	2.33
29. Preparing memoranda on nonlegal research	2.08	2.70

Most are anxious, as shown above, to have such non-legal research become a larger part of their jobs in the future.

In an effort to deal with the question of non-authorized practice of law within this specialty, a few questions were inserted in the job description possibilities to test this, as described in the table below:

TABLE B

	Average non-zero responses	
	Present	Future
9. Draft briefs	1.67	2.25
10. Legal research	1.38	2.38
20. Appear for client in court on routine matters	1.77	2.33
28. Prepare memos on legal research	1.68	2.34

The persons responding to the present section of the above table correspond almost perfectly to the persons currently enrolled in law school (6) or preparing to attend law school in the near future (5). These persons may perhaps be more analogous to what has traditionally been termed the law clerk (or "summer lawyer") than to the legal assistant. A considerable increase in the number of persons answering the future section in these areas suggests a substantial desire among legal assistants in litigation to learn such in-firm legal skills.

Currently, legal assistants in litigation appear to spend most of their time doing document search in response to Motions for Production or Interrogatories (No. 5); cite checking and shepardizing (No. 12 & No. 13); indexing documents (No. 15); preparing digests, abstracts, indices, and/or summaries of transcripts (No. 17); and to a varying extent the research jobs included in Table A of this section.

Of the possible skills listed in the Survey, only reception/switchboard work was not answered by legal assistants in litigation. By far, the skill listed as used most often (25 out of 35 respondents) was client contact by telephone, legal assistant and to a certain alarm that the legal assistant does a great deal more "legal practice" than he or she apparently does as indicated in the letter, and/or conference. This, no doubt, has contributed to the visibility of the results of this Survey. Other duties listed with some regularity (between 5 and 10 out of 35 respondents) included typing (8 persons), office filing (4 persons), maintain library (5 persons), prepare memoranda *re* office procedure (8 persons), train non-attorney staff (5 persons), and supervise non-attorney staff (7 persons). Skills not listed but included by respondents include garnishments (1 person) and interviewing job applicants (1 person).

Fifteen (15) of the 35 respondents in this section are formally evaluated. Seven (7) believe they are not; nine (9) are unsure, and two (2) gave no response. Here, as in general, there is frequent complaint as to a lack of feedback regarding the quality of the work performed, although the finished product appears always to be approved by a lawyer. An overwhelming 30 out of 35 respondents want some sort of regular, formal evaluation, however; only 5 did not or gave no answer. There is an apparent feeling that such feedback would improve productivity in every aspect of job performance.

Finally, legal assistants in litigation are divided nearly as are legal assistants in general (see Appendix A, Table 2) as to the necessity of certification. Overall, 35.8% of respondents to the Survey were unsure about or opposed to any sort of certification. Among legal assistants in litigation, the similar response was 34.3%. Again, various combinations of institutions doing such certification are proposed. (See Appendix B, Table 2.) Many of those who do not see the profession as a permanent career possibility frequently cite a "lack of definition" as an important reason for considering leaving the profession.

D. Corporate

Ten (10) respondents who work primarily in the corporate area completed the section in a way such that the results could be tabulated. Four (4) respondents returned Surveys which indicated generally that respondents worked in this area but which could not be tabulated for various reasons. (In addition, 13 persons listed this specialty as an area of secondary activity. These, plus one (1) respondent who listed "corporate" as his/her specialty, work in municipal bonds. None of these is included in the results below.)

The respondents who completed this section work exclusively for law firms. Four (4) of the respondents work in firms with more than 75 attorneys, and only one (1) works in a firm with less than 10 attorneys. Nine (9) of ten (10) respondents continue to work at those firms with which they began. One (1) has worked in the corporate area for 3 years, and one (1) for less than six months. The remaining eight (8) have between one and two years' experience.

None of these respondents looks upon the position as a long-term career possibility.

Of those responding who work primarily in the corporate area, all had attended college. Nine (9) have received college degrees, and three (3) have done post-graduate work. None was engaged in part-time legal study at the time of the Survey.

Seven (7) of the respondents have obtained formal training from the Institute for Paralegal Training in Philadelphia. Two (2) of those with no training have had related work experience, including one (1) who worked as a legal secretary for ten years. Only one (1) respondent has had neither formal training nor prior related working experience.

Of those respondents who received formal training, 6 feel such training necessary in the corporate area. Two (2) commented generally that formal training is necessary in such specialized fields as corporate and probate work, while 4 others merely noted that formal training "speeds up one-the-job training" and enables the new legal assistant to become fully useful to the law firm sooner and with less effort by the firm. The 3 respondents without formal training are divided as to its necessity. One (1) feels formal training necessary, one (1) feels it unnecessary, and one (1) is uncertain.

There appears to be no pattern to the way in which corporate legal assistants receive assignments. Two (2) receive assignments from an attorney in charge of associates' work, 2 receive assignments from an attorney in charge of paralegal work, and the remainder receive assignments randomly from various attorneys. All of the respondents in the corporate area indicate that they work independent of direct supervision, but under the general supervision of an attorney with that attorney reviewing only completed work.

Results of the Survey indicate that corporate legal assistants as a group are widely experienced. Of the 49 categories in this section of the Survey, there were only two (2) categories in which no one at the time of the Survey had had any experience: preparation of corporate income tax returns and participation in negotiations for acquisitions.

At present, the majority of legal assistants in the corporate area work on incorporations and other Secretary of State filings, prepare other short documents such as promissory notes, powers of attorney and bills of sale, do corporate reviews and blue sky research, and prepare closing documents and binders.

In addition, corporate legal assistants as a whole are engaged in drafting shareholders' stock option and stock purchase agreements, responding to comments on blue sky application, and preparing closing documents.

The following table summarizes the diversity of the practice of the corporate legal assistant at present:

Number of Activities (total 49 activities):	*Number of respondents*
Less than 10	3
Less than 20	2
Less than 30	4
Less than 40	1

In fact, the respondents who have been engaged in fewer than 10 activities have been engaged in fewer than five (5). Two (2) of these individuals only organized corporations (preparation of charters, by-laws, subscriptions and minutes) and one (1) only does securities work. Judging from other responses on their Surveys, it is possible that two (2) of these individuals work in the same firm, implying a division of labor within the corporate department.

The diversity of activities in which corporate legal assistants have participated appears to be somewhat related to experience and number of hours billed. To some extent, the responses also reflect the nature of a particular firm's corporate law practice.

The responses to the Survey indicate that legal assistants feel themselves under utilized at present both in terms of the diversity of work they expect to do and the frequency wih which such activities are performed. Eight (8) individuals completed this section. Although there were at least 3 people who foresaw some opportunity in all of the categories listed, the majority (5 or more) who completed this section did not. Most do not foresee working in the areas of uniform commercial code research, public offerings (except proofreading registration statements), and responding to comments on blue sky applications. These areas are those in which the greatest potential liability for law firms exists. In addition, most corporate legal assistants do not expect to become involved in negotiations, preparation of documents under the Securities and Exchange Act of 1934, corporate reviews, or most drafting assignments. However, respondents as a whole do anticipate doing less in the future of the more routine activities such as incorporations and preparation of Secretary of State filings.

E. Employee benefit plans

With 5 legal assistants responding to the Survey in the Employee Benefit Plans area, the sample is not large enough to draw conclusions about the field as a whole. However, these trends may be seen.

None of the 5 works exclusively in EBP, although 1 does predominantly. Most do mainly corporate work with EBP as a secondary activity.

All 5 respondents have attended college: one (1) has done some graduate work, 3 have a bachelor's degree, and one (1) has attended college but did not complete a degree.

Four (4) of the respondents are female, and one (1) is male. Four (4) have been legal assistants for six months to two years, although one (1) has worked in this capacity for over 10 years in conjunction with his work as a legal investigator. All 5 respondents work in firms with fewer than 50 attorneys.

Three (3) of the 5 had formal training as a legal assistant, and 4 believe it to be necessary in view of the complexity of the field and its tax-related aspects. The respondents believe useful skills would include a knowledge of tax law and business, and training in mathematics.

EBP legal assistants prepare drafts of pension and profit-sharing plans and related trust agreements, as well as forms for submission to the Internal Revenue Service relating to the plans. Gathering and transmittal of factual information leads to much contact with clients, accounts, actuaries, and others outside the firm. Additionally, EBP legal assistants may also be in charge of keeping updated files of plans of firm clients. They may also do some work in the field of tax law.

All of the respondents work more or less independently rather than under close supervision by an attorney or attorneys. Four (4) respondents believe their work should be formally evaluated. Two (2) are sure their work is currently so evaluated, and the other 3 are not sure. All feel that greater feedback during their work would improve both quality and efficiency.

The number of legal assistants specializing in Employee Benefit Plans is at present small. Since the date of distribution of the Survey, however, 3 legal assistants in EBP have come to Chicago from the Institute for Paralegal Training in Philadelphia. A later distribution of this Survey may therefore be more helpful in the description of their professional activities.

F. Trademarks and copyrights

Of the 4 legal assistants responding who work in the trademarks and copyrights specialty, only one (1) works primarily in that field. One (1) works primarily in probate, another works mainly in corporate law and litigation, and the third works primarily in litigation.

All 4 of the legal assistants working in this specialty have bachelor's degrees. One (1) was trained at the Institute for Paralegal Training, and one (1) intends to begin law school shortly.

The legal assistant in the trademark and copyright field performs and would like to continue to perform the following services, in descending order of frequency: correspondence with other firms doing research, preparation of applications, determination of class, preparation of copyright forms, renewals, dealing with foreign correspondents, and summarizing research reports. Generally, future responses show that the legal assistant now performing in the speciality of trademarks and copyrights would like to become more involved in those duties in the future.

"THE GENERALIST"

Seventeen (17) legal assistants responded in 3 or more specialty categories and have been classified as "generalists." They account for 17.9% of legal assistants answering the Survey.

The majority are female (88.2%). Predominant age groups are 20–25 (47.1%) and 31–35 (23.5%).

Those with only high school diplomas account for 11.8%; however, all have had some business school training and at least 10 years of legal secretarial experience. 35.3% have had some college, and all of this group have had previous legal secretarial experience or formal paralegal training. Over thirty-five percent (35.3%) have bachelor's degrees, and half have had additional formal paralegal training. Over seventeen percent (17.6%) have had some graduate or law school education. None is currently enrolled in law school. Seven (41.2%) of the 17 generalists are currently enrolled in undergraduate or technical studies.

Of the 17 generalists 35.3% have received formal paralegal training at the Institute for Paralegal Training in Philadelphia (17.6%), Paralegal Institute in New York (5.9%), or Harper College in Palatine, Illinois (11.8%). Most of these formally-trained legal assistants feel this training is necessary or useful; one (1) expressed no opinion.

The majority (64.7%) has had no formal training. Of these legal assistants 11.8% have high school diplomas, business school education and at least 10 years of legal secretarial experience; 5.9% hold bachelor's degrees only; 11.8% hold bachelor's degrees and have had some legal secretarial experince; 29.4% have had some college and legal secretarial or accounting experience; 5.9% have attended law school. Of this group 47.1% feel formal training is necessary or useful; 11.8% feel it is unnecessary; and 5.9% expressed no opinion.

Virtually all began their work in law firms and continue to work in law firms (82.4% have remained with the same firm.) Size of their employing firms varies from under 25 attorneys (58.8%), to 25–100 attorneys (41.2%). The vast majority (88.2%) feels the attitude of attorneys in their firms toward legal assistants is generally favorable, with the remaining 11.8% unsure. Eleven (64.7%) of the 17 generalists consider their position as a permanent career; 35.3% do not.

Assignments are distributed in all cases by attorneys. Billing of clients for paralegal services occurs in 88.2% of these instances at an average of 5½ hours per day. Fourteen (82.4%) work independent of direct supervision, but under the general direction of their supervising attorneys, and initiative is encouraged. Although only 41.2% are aware that their performance is evaluated on a regular basis, an overwhelming 88.2% feel they should be so evaluated.

JOB RESPONSIBILITIES

A. Probate

Fifteen (88.2%) of the generalists answered the Probate section. Their general background includes courses in Mathematics (1 to 3 courses, 35.3%; over 4 courses, 47%) and bookkeeping or accounting (1 to 5 courses, 41.2%; over 5 courses, 5.9%). Duties within an estate are contiguous for 52.9%, and isolated for 17.6%. Over seventy percent (70.6%) feel they should be given the opportunity to follow an estate through all stages of administration, rather than being assigned specific tasks in a piecemeal fashion.

The present frequency of activities performed in Probate (see Appendix A) by the average generalist is 1.33. It is hoped that this frequency of Probate activities for the average generalist will increase in the future.

The activities presently performed with the highest frequency are obtaining pertinent information directly from clients, preparing pleadings (court papers), preparing inventories and current and final accounts, and filing forms. The least frequently performed activities at present are drafting wills and trust instruments, preparing estate planning computations and organizing results thereof into summaries for clients.

B. Real estate

Sixteen (94.1%) of the generalists answered the Real Estate section. The present frequency of activities performed in Real Estate (see Appendix A) by the average generalist is .49. It is hoped that the frequency of Real Estate activities the average generalist will perform in the future will increase to 1.14, developed from the following table:

	Present	Future
I. Purchase—Sale transactions	0.64	1.33
II. Lease matters	.33	1.06
III. Mortgage transactions	.35	1.08
IV. Partnership matters	.62	1.48
V. Survey and easements	.41	1.07
VI. Tax matters	.57	.84

The activities presently performed with the highest frequency are drafting closing documents (deeds and proration statements), drafting trust papers (trust agreement, directions, beneficial interest assignments), drafting title insurance and Torrens forms, title clearance, and tract searches, and paying taxes (general and specials, redemptions). The least frequently performed activities at present are drafting joint order, opening an escrow at escrowee's office alone, property inspection, drafting subordination agreements, surety and guarantee agreements, insurance matters, and computation of profits and losses.

Activities which at present are not performed by any of the generalists are drafting moneylender escrows, and drafting attornment and non-disturbance agreements, and tenants estoppel agreements.

C. Litigation

Thirteen (76.5%) of the generalists answered the Litigation section. The present frequency of activities performed in Litigation (see Appendix A) by the average generalist is .91. It is hoped that the frequency of Litigation activities the average generalist will perform in the future is 1.49.

The activities presently performed with the highest frequency are preparing court filings such as Complaints, Answers, Interrogatories, Notices, Summonses, etc., non-legal research, investigations, factual discovery and preparation of memoranda thereon; document search in response to Motions to Produce or Interrogatories; search and check public records (such as court files, indices, and dockets); file motions and papers; cite check; and arrange for publication of legal notices. The activities presently performed with the least frequency are interviewing experts and consultants, drafting briefs, writing Statements of Fact, preparation of witnesses, and preparing memoranda on legal research.

D. *Corporate*

Thirteen (76.5%) of the generalists answered the Corporate section. The present frequency of activities performed in Corporate (see Appendix A) by the average generalist is .63. It is hoped that the frequency of Corporate activities the average generalist will perform in the future is .79, developed from the following table:

	Present	Future
1. Organize corporations	1.19	1.34
2. Draft corporate resolutions	1.41	1.43
3. Secretary of State filings	1.06	1.16
4. Draft agreements	.69	.84
5. Miscellaneous	.88	.94
6. Exchange Act of 1934	.05	.30
7. Public offerings	.07	.27
8. Blue Sky	.10	.41
9. Acquisitions	.22	.43

The activities presently performed with the highest frequency are all activities in the Organization of Corporations section; drafting of Corporate Resolutions; all activities in the Secretary of State filings section; use of power of attorney; preparation of bill of sale or transfer of assets, and stock transfers. The least frequently performed activities at present are all activities in the Exchange Act of 1934 section, the Public Offerings section, the Blue Sky section, and the Acquisitions section.

E. *Employee benefit plans*

Only 35.3% of the 17 generalists answered this section (see Appendix A). The present frequency of activities performed by the average generalist is .60. The increase in the future to .71 does not indicate a great interest in increasing these duties.

F. *Trademarks and copyrights*

Only 17.6% of the 17 generalists answered this section.

The present frequency of activities performed by the average generalist is .10 which remains constant as to future activities.

CONCLUSIONS

As was stated at its outset, the intention of this resport is not to recommend for or against the certification of legal assistants, nor to suggest standards for such certification. Legal assistants are not by this report attempting to certify themselves. The results of the Survey and this self-statement do however, suggest certain conclusions about whom the legal assistant is and what he or she does which ought to be kept clearly in mind in considerations of definition and/or standardization.

1. There seem to be two separate but equally strong parallel definitions of the legal assistant. One such definition may be termed the para-professional legal assistant, a resource of applicable non-legal expertise within the practice of law. In addition to functioning in more routine matters such as filling out forms, filing papers, and indexing and abstracting, this para-professional brings such expertise as accounting, translation, business management, and extensive factual research background to the practice of law.

Concurrent with this, there appears to be another definition of the legal assistant which may be termed the para-clerical legal assistant. This legal assistant brings to more routine matters a knowledge of office procedures and an ability to apply certain clerical skills to efficient and relatively independent completion of routine matters, subject to an attorney's review and signature. By this definition, intelligent, experienced, and trusted legal secretaries have functioned as para-clerical legal assistants for many years.

As the practice of law grows more complex, both the para-professional and the para-clerical legal assistant perform important tasks. It is crucial, however, in any consideration of definition and/or certification of the legal assistant that the differences noted above be kept clearly in mind.

2. The results of this Survey suggest that there is little or no unauthorized practice of law among legal assistants. Indeed, nearly anything that resembles the research and/or writing of legal materials *within* an office is restricted almost exclusively to those persons now in law school or about to enter law school. Without exception, the work of the legal assistant is subject to final review by a practicing attorney.

Mention of client contact among those "skills" which legal assistants use most frequently suggests that communication by a legal assistant that a legal procedure is in process or has been completed has contributed to apprehension that procedures were, in fact, done independently by the legal assistant. As noted earlier, the results of this survey in no way suggest this is true.

3. Lack of guidelines, if not of actual job definition, is mentioned by many qualified legal assistants as a significant reason for leaving the field. This includes especially those persons who may be termed para-professional legal assistants, that is, those persons with special training and/or college degrees. If, as one respondent suggests, the profession is allowed to "seek its own level," many of thee extremely qualified persons may leave it before any guidelines are offered.

4. Finally, we, as working legal assistants, believe firmly in the importance of the professional we have chosen. We look forward to participating, in any and every way possible, with those persons and institutions engaged in the definition and/or certification of this new and vital profession within the practice of law.

APPENDIX A

PARALEGAL SURVEY STANDARDS COMMITTEE CHICAGO ASSOCIATION OF PARALEGAL ASSISTANTS

I. Personal profile

Age

———Under 20
———20–25
———26–30
———31–35
———36–40
———over 40

Marital status

———Single
———Married
———Divorced
———Widowed

Sex

———Female
———Male

II. Educational background

A. *Formal training*

———1. High school
———2. Some college
———3. Associate degree
———4. College degree
———5. Some graduate school
———6. Graduate degree
———7. Some law school
———8. Business college/Secretarial school/Technical training

B. What degree(s) do you hold and in what area(s) (e.g. B.A. Sociology)?

C. Did you have formal paralegal training ——— yes ——— no

D. If yes,
———Institute for Paralegal Training (Philadelphia, Pa.)
———Other (Please specify ———————————————)

E. Should paralegals have formal traiing? ——— yes ——— no

F. Why or why not? ———————————————————

III. Work experience

A. When did you begin working as a paralegal? ——————— month ——————— year

B. How long have you been a paralegal?
———Less than 6 months
———6 months to 1 year
———1 year to 2 years
———2 years to 3 years
———3 years to 4 years
———4 years to 5 years
———5 years to 7 years
———7 years to 10 years
———over 10 years

C. Number of job changes as paralegal
——— None
——— One
——— Two
——— Three

D. Length of time at first paralegal position
——— Less than 6 months
——— 6 months to 1 year
——— 1 year to 2 years
——— over 2 years

E. Type of organization you originally worked for as a paralegal
——— law firm
——— bank
——— corporation
——— government
——— other (please specify)

F. Type of organizatiton you presently work for as a paralegal
——— law firm
——— bank
——— corporation
——— government
——— other (please specify)

G. Related job experience
——— 1. No related experience
——— 2. Legal secretary
——— 3. Other (please specify ———)
——— 4. Length of previous experience

H. Special skills used in your present job
——— 1. Typing
——— 2. Shorthand
——— 3. Court reporting
——— 4. Office filing
——— 5. Office bookkeeping
——— 6. Reception/switchboard
——— 7. Docket control
——— 8. Notarizing
——— 9. Prepare fee and disbursement statements, etc.
——— 10. Maintain library
——— 11. Translation
——— 12. Prepare memoranda re: office procedure
——— 13. Train non-attorney staff
——— 14. Supervise non-attorney staff
——— 15. Client contact (e.g. by telephone, by letter or by conference)
——— 16. Other (please specify ———)

IV. Working conditions

A. Starting salary as a paralegal
———1. Below $7,000
———2. $7,000–$7,499
———3. 7,500– 7,999
———4. 8,000– 8,299
———5. 8,300– 8,599
———6. 8,600– 8,999

———7. 9,000– 9,499
———8. 9,500 & over
B. Present salary
——— 1. Below $7,000
——— 2. $7,000–$7,499
——— 3. 7,500– 7,999
——— 4. 8,000– 8,299
——— 5. 8,300– 8,599
——— 6. 8,600– 8,999
——— 7. 9,000– 9,499
——— 8. 9,500– 9,999
——— 9. 10,000–10,999
———10. 11,000–11,999
———11. 12,000 & over
C. Do you receive a cash bonus in addition to salary?
———yes ———no
D. Are you paid overtime? ———yes ———no
E. Should paralegals be paid overtime? ———yes ———no
F. Fringe benefits
1. Insurance
——— (a) Life
——— (b) Medical
2. Annual vacation after first year
——— (a) 1 week
——— (b) 2 weeks
——— (c) 3 weeks
——— (d) 4 weeks
2(a). Maximum annual vacation
——— (a) 1 week
——— (b) 2 weeks
——— (c) 3 weeks
——— (d) 4 weeks
——— (e) more (Please specify ————)
2(b). Years of service required to reach maximum annual vacation.
——— (a) 0 to 1 year
——— (b) 2 to 5 years
——— (c) 6 to 10 years
——— (d) 11 to 15 years
——— (e) 16 to 20 years
——— (f) over 20 years
3. Sick leave/personal days
———(a) Unlimited
———(b) 0–5
———(c) 6–10
———(d) 11–15
4. Office space
———(a) Private office
———(b) Semi-private office (2 per office)
———(c) More than 2 per office
5. Secretarial help
———(a) Private secretary
———(b) Secretary shared
———(c) Typing pool
———(d) None
G. If you work in a law firm, how many attorneys in the firm?
———(1) Under 10
———(2) 10–25
———(3) 26–50
———(4) 51–75
———(5) 76–100
———(6) 101–150
———(7) Over 150
H. What is the general attitude of the attorneys in your firm toward the use of paralegals?
———favorable
———unfavorable
———don't know

I. Billing and supervision
1. Supervision
———(a) Do you work under the close supervision of an attorney? Or,
——— Do you work independently under the general direction of an attorney with only your completed work reviewed?
———(b) Should paralegals be closely supervised? Or,
——— Should paralegals work more independently?
(c) Why? --
(d) Are you encouraged to use your initiative rather than adhere strictly to instructions given by an attorney? ———yes ———no
(e) Should paralegals assume responsibilities not formally assigned by an attorney? ———yes ———no
(f) If yes, what type of responsibilities? ----------------------------
––
(g) Is your overall performance formally evaluated?
———yes ———no ———don't know
(h) Should your performance be formally evaluated?
———yes ———no

2. Assignment of Work
Who assigns your work to you?
———(a) An attorney in charge of associates' work
———(b) An attorney in charge of paralegals' work
———(c) Another paralegal (supervisor)
———(d) Non-attorney supervisor (e.g. office manager)
———(e) Random

3. Billing
(a) Bill clients for time——yes——no
(b) If yes, average time daily billed to clients————hours
(c) Average hourly billing rate, if applicable:
$————per hour

V. *Personal Opinions*

A. Do you see a paralegal position as a long-range carer for yourself?
yes——no——
B. Why or why not? --
––
C. Should a paralegal be certified or licensed by:
———1. American Bar Association
———2. State bar association
———3. Chicago Association of Paralegal Assistants
or other similar organization
———4. State
———5. Not at all
Why? --
––
D. Are yo a degree candidate in law school?——yes——no
E. Do you intend to go to law school?-——yes——no
F. Do you intend to go to law school?----yes----no
----yes----no
G. Are you currently enrolled in any course or program to further your formal education?----yes----no
H. If yes, what level program:
———1. Technical training
———2. Undergraduate
———3. Graduate
———4. PhD
I. If yes, what area of concentration (e.g. business, education, etc)?------------
J. If yes, are your presently planning to complete the program?
----yes----no
or other similar organization
Yes——no——
Why? --
K. What additional training or skills (other than paralegal training), if any, would help you to perform your job as a paralegal?
——— 1. Math
——— 2. Bookkeeping

——— 3. Research Methods
——— 4. Other (Please specify ———————————)

Complete this section as follows: On a scale of 0 to 3—0 never performed 1 rarely performed 2 sometimes performed 3 usually performed

Indicate in the first column how often and with what emphasis you perform the specific tasks listed in relation to your overall duties. In the second column please indicate on the same scale of 0 to 3 how often and with what emphasis an experienced paralegal assistant should perform those duties in the future. Complete the questions in the area(s) in which you do paralegal work.

Department: In which area(s) do you work? (Use 0 to 3 scale)—

——— (*a*) Probate
——— (*b*) Real Estate
———(*d*) Corporate
——— (*e*) Trademarks and Coprights rights
——— (*f*) Employee Benefits
——— (*g*) General
——— (*h*) Other (Please specify, e.g. library, personnel ———)

A. PROBATE

I. Job Activities:

1. Preparing pleadings (court papers) ——— ———
2. Keeping estate accounting records ——— ———
3. Drafting wills and trust instruments ——— ———
4. Keeping tickler files on upcoming deadlines ——— ———
5. Preparing individual and estate tax returns ——— ———
6. Preparing inventories ——— ———
7. Preparing current and final accounts ——— ———
8. Preparing estate planning computations ——— ———
9. Organizing results of No. 8 into summaries for clients. ——— ———
10. Obtaining pertinent information directly from clients. ——— ———
11. Transferring assets ——— ———
12. Filing forms with Clerk of Probate Courts ——— ———
13. Valuing Assets ——— ———

II. Job Description:

(A) Indicate with the number of the task as listed in Part I, at what point you are generally brought into work with an Estate: ———————

(B) Indicate whether, in general, your duties within an estate are contiguous, or if you are given isolated assignments: ——————— Contiguous ——————— Isolated

(C) In regard to Section B above, how would you prefer your assignments to be handled?

——— Be given the opportunity to follow an estate through all stages of administration
——— Concentrate on one specific task in various estates (e.g. Final Accounts, Federal Estate Tax Returns)

III. Training:

(A) Indicate how many mathematics courses you completed at high school and post high school level: ——— None ——— 1–3 ——— 4–5 ——— over 5

(B) Indicate how many courses in bookkeping and accounting you received at any educational institution. ——— Courses.

(C) Do you feel the above-indicated training is sufficient in regard to the demands of your job as a probate paralegal? ——— Yes ——— No If you answered "Yes" above, what level of training would you consider to be basic for the Job: ——— Introductory ——— Advanced ——— Thorough

B. REAL ESTATE

Present *Future*

I. Purchase-Sale Transactions:

1. Drafting contracts:
   (a) Purchase-sale ——— ———
   (b) Exchange ——— ———

(c) Residential property ______ ______
(d) Commercial property ______ ______
(e) Industrial property ______ ______
2. Escrows:
(a) Drafting deed and money ______ ______
(b) Drafting moneylenders ______ ______
(c) Drafting joint order ______ ______
(d) Drafting construction ______ ______
(e) Opening an escrow at escrowee's office ______ ______
(1) alone ______ ______
(2) accompanying your firm's attorney ______ ______
3. Drafting closing documents:
(*a*) Deeds ______ ______
(*b*) Proration statements ______ ______
4. Drafting trust papers:
(*a*) Trust agreement ______ ______
(*b*) Directions ______ ______
(*c*) Beneficial interest assignments ______ ______
5. Drafting title insurance and Torrens forms ______ ______
6. Title clearance ______ ______
7. Tract searches ______ ______
8. Attending closing:
(*a*) alone ______ ______
(*b*) accompanying your firm's attorney ______ ______
9. Property inspection ______ ______
II. Lease matters:
1. Drafting leases:
(*a*) Residential property ______ ______
(*b*) Commercial property ______ ______
(*c*) Industrial property ______ ______
2. Drafting subordination agreements ______ ______
3. Drafting attainment and non-disturbance agreements ______ ______
4. Drafting tenants estoppel agreements ______ ______
5. Drafting surety and guaranty agreements ______ ______
6. Drafting assignments ______ ______
7. Scheduling leases ______ ______
8. Examination of leases ______ ______
III. Mortgage Transactions:
1. Drafting mortgage and note:
(*a*) Permanent Loan ______ ______
(*b*) Construction loan ______ ______
2. Drafting supplements, amendments and modifications. ______ ______
3. Drafting security agreements ______ ______
4. Drafting chattel mortgage documents ______ ______
5. Drafting guarantees ______ ______
6. UCC statements:
(*a*) Drafting ______ ______
(*b*) Filing ______ ______
7. Default matters ______ ______
8. Foreclosure matters ______ ______
9. Insurance matters ______ ______
IV. Partnership Matters:
1. Drafting partnership agreements ______ ______
2. Drafting certificates of partnership agreements ______ ______
3. Drafting amendments to partnership agreements ______ ______
4. Drafting amendments to certificates of partnership agreements. ______ ______
5. Assumed name certificates
(*a*) Drafting ______ ______
(*b*) Filing ______ ______
6. Computation of profit and losses ______ ______
V. Survey and Easements:
1. Examination of survey ______ ______
2. Drafting easements ______ ______

VI. Tax Matters:
- 1. Division
- 2. Re-assessment
  - (*a*) Appraisals
  - (*b*) Computations
- 3. Checking tax records
- 4. Pay taxes
  - (*a*) General and specials
  - (*b*) Redemptions
- 5. Tax injunctions
  - (*a*) Drafting
  - (*b*) Filing
- 6. Specific objections
  - (*a*) Drafting
  - (*b*) Filing

C. LITIGATION

1. Non-legal research
2. Write Statements of Facts
3. Investigations and factual discovery
4. Search and check public records, such as court files, indices and dockets.
5. Document search in response to Motions for Production or Interrogatories.
6. File motions, papers
7. Serve papers
8. Prepare court filings, such as Complaints, Answers, Interrogatories, Notices, Summonses, etc.
9. Draft briefs
10. Legal research
11. Select and compile legal citations
12. Cite check
13. Shepardize
14. Bibliographical research
15. Index documents
16. Set up depositions and hearings
17. Prepare digests, abstracts, indices and/or summaries of transcripts
18. Preparation of graphs, charts, etc
19. Preparation of exhibits
20. Appear for client in court on routine matters
21. Conduct interview with client
22. Witness interviewing
23. Preparation of witnesses
24. Interview experts and consultants
25. Review of drafts of briefs, etc., for clarity and accuracy
26. Arrange for printing of briefs, etc
27. Arrange for publication of legal notices
28. Prepare memoranda on legal research
29. Prepare memoranda on non-legal research, investigations, factual discovery.

Corporate:
- 1. Organize corporations (charter, by-laws, subscriptions, minutes).
  - (*a*) Profit
  - (*b*) Not-for-profit
  - (*c*) Professional
- 2. Draft corporate resolutions (minutes and consents):
- 3. Secretary of State filings.
  - (*a*) Annual reports
  - (*b*) Dissolutions
  - (*c*) Qualification to do business as a foreign corporation.
  - (*d*) Other (please specify)

4. Drafting Agreements
    - (*a*) Employment agreements ______ ______
    - (*b*) Shareholders' agreement ______ ______
    - (*c*) Underwriting agreement ______ ______
    - (*d*) Merger plans and agreements ______ ______
    - (*e*) Acquisition agreements ______ ______
    - (*f*) Escrow agreement ______ ______
    - (*g*) Voting trust agreement ______ ______
    - (*h*) Stock option ______ ______
    - (*i*) Stock purchase ______ ______

5. Miscellaneous:
    - (*a*) Power of attorney ______ ______
    - (*b*) Promsisory notes ______ ______
    - (*c*) Bill of sale or transfer of assets ______ ______
    - (*d*) Assumed name certificates ______ ______
    - (*e*) Tax exemption applications ______ ______
    - (*f*) Prepare corporate income tax return ______ ______
    - (*g*) UCC research ______ ______
    - (*h*) Stock traosfers ______ ______
    - (*i*) Stock exchange listing applications ______ ______
    - (*j*) Corporate review ______ ______

6. Exchange Act of 1934:
    - (*a*) Proxy statements in compliance with 1934 Act ______ ______
    - (*b*) 10–K ______ ______
    - (*c*) 10–Q ______ ______
    - (*d*) 9–K ______ ______
    - (*e*) 8–K ______ ______
    - (*f*) Rule 144 stock transfers ______ ______

7. Public Offerings:
    - (*a*) Investigation ______ ______
    - (*b*) Drafting ______ ______
    - (*c*) Proof reading ______ ______
    - (*d*) Prepare and review officers' and directors' questionnaires. ______ ______
    - (*e*) Prepare and review underwriters' questionnaires. ______ ______

8. Blue Sky (other than public offerings):
    - (*a*) Research ______ ______
    - (*b*) Filings for security registration ______ ______
    - (*c*) Respond to comments ______ ______
    - (*d*) Preparation of applications for broker-dealer and investment adviser licenses. ______ ______

9. Acquisitions:
    - (*a*) Participate in negotiations ______ ______
    - (*b*) Prepare closing documents ______ ______
    - (*c*) Closing lists ______ ______
    - (*d*) Closing binder ______ ______
    - (*e*) Closing certificate ______ ______
    - (*f*) Drafting opinion ______ ______
    - (*g*) Attend closing ______ ______

E. EMPLOYEE BENEFIT PLANS

If your major area is EBP, go through the Corporate Section carefully and indicate those tasks which are presently significant in your work, and those which you feel should be significant.

In addition, please rate the following items:

1. Pension and profit-sharing plans:
    - (*a*) Drafting ______ ______
    - (*b*) Amending and restating ______ ______
2. Trust Agreements:
    - (*a*) Drafting ______ ______
    - (*b*) Amending and restating ______ ______
3. Prepare IRS submission, including preparation of forms (4573, 2848–D, etc.).

F. TRADEMARKS AND COPYRIGHTS

1. Trademarks:		
(*a*) Determination of class	______	______
(*b*) Correspondence with the firm doing the research	______	______
(*c*) Summarize research report	______	______
(*d*) Preparation of application	______	______
(*e*) Renewals	______	______
(*f*) Dealing with foreign correspondence	______	______
2. Copyrights:		
(*a*) Preparation of forms	______	______

APPENDIX B

TABLE 1.—SIZE OF LAW FIRMS OF SURVEY RESPONDENTS

Size	Number	Percen
Less than 10 attorneys	12	12.6
10 to 25 attorneys	16	16.8
26 to 50 attorneys	21	22.1
51 to 75 attorneys	11	11.6
76 to 100 attorneys	25	26.3
101 to 150 attorneys	4	4.2
More than 150 attorneys	4	4.2
Total	93	97.8

1. Two (2) of the 95 respondents did not work in law firms.

2. The 15 sample surveys were distributed to a law firm of more than 150 attorneys and are not included here. See Appendix C.

TABLE 2.—*Institutions that legal assistants feel should participate in certification*

Institution	*Number*
American Bar Association	32
State Bar Association	32
CAPA or similar organization	23
State	12
Not at all	25
No answer and undecided	9

The sum of responses is greater than 95, due to combination responses showing more than one institution as proposed certifying agencies.

APPENDIX C

ABOUT THE SAMPLE SURVEYS

The 15 sample Surveys were filled out by legal assistants working at a Chicago law firm having more than 150 attorneys. Five (5) of these paralegals have been trained at the Institute for Paralegal Training while the other 10 have either been in law school or graduate school, or have been promoted after several years as a legal secretary. Of the 15 respondents, all but 3 had college degees. Three (3) people held Master's degrees and 4 had some law school background.

On the issue of training, only 3 legal assistants felt that it is necessary to have formal training while the other 10 waivered between a definite no or the qualification that it depends upon the employer and the field of law involved. A majority of the respondents were satisfied with their responsibilities on the job and they unanimously agreed that this responsibility should increase progressively. However, in terms of a long-range career, eleven (11) said the career of legal assistants is currently too limited and unchallenging, and offered no future. Still, 4 people envisioned the job as a long-range career.

APPENDIX D

ABOUT THE COMMITTEE ON STANDARDS

Jean Knoll Marengo, Chairperson, has worked as a legal assistant in litigation in a law firm of 76 to 100 attorneys since 1972. She attended Vassar College and received an AB/MA from Princeton University in 1971. She has served on the CAPA Board of Directors and as Committee chairperson since early 1973.

Ruth E. Copeland has worked as a legal assistant in employee benefit plans in a law firm of 76 to 100 attorneys since 1973. She received a BA from the University of Illinois in 1973 and attended the Institute for Paralegal Training.

Linda M. Dougherty has worked as a legal assistant in corporate and employee benefit plans in a law firm of 50 to 75 attorneys since 1972. She received a BA from St. Mary's College in 1972 and attended the Institute for Paralegal Training.

Janet M. Fronczak has worked as a legal assistant in litigation in a law firm of from 50 to 75 attorneys since 1973. She received a BA from St. Mary's College in 1972, attended the Institute for Paralegal Training and is currently enrolled in Loyola Law School's Special Legal Research Course for Legal Assistants. She is currently a member of CAPA Board of Directors.

Randi K. Lowenthal worked as a corporate legal assistant in a law firm of firm of from 100 to 150 attorneys and as a legal assistant in real estate in a law firm of 10 to 25 attorneys until she became Coordinator of the Lawyers' Assistant Program, Roosevelt University, in 1974. She received a BA from the University of Colorado in 1971, attended the Institute for Paralegal Training, and is currently studying for an MBA. She has served as a director and president of CAPA.

Mary Alice Lightle has worked as a corporate legal assistant in a law firm of over 150 attorneys since 1971. She received an AB from Bryn Mawr College in 1970, attended the Institute for Paralegal Training, and is currently studying for an MBA at the University of Chicago. She has served on the CAPA Board of Directors and as corresponding secretary for the Association.

Sheila J. Moolenaar has worked as a legal assistant in litigation in a law firm of 50 to 75 attorneys for three years after three years of prior experience as a legal secretary. She attended the University of Illinois for two years and is currently enrolled in Loyola Law School's Legal Research Course for Legal Assistants. She has served on the CAPA Board of Directors and as its vice president. She is currently the president of the Association.

Ann Marie Powers has worked as a legal assistant in probate since 1973. She received a BA from the University of Notre Dame in 1973 and attended the Institute for Paralegal Training.

Sally Louise Steinberg worked as an administrator for the American Arbitration Association before becoming a legal assistant in litigation in a firm of 75 to 100 attorneys in 1973. She received a BA from the University of Wisconsin in 1969 and an MA from New York University in 1972.

Janet L. Svoboda has worked as a legal assistant in real estate in a private corporation for one year. She received a BA from the University of Northern Colorado, attended the Institute for Paralegal Training and is currently enrolled in Loyola Law School's Legal Research Course for the Legal Assistant. She has served on the CAPA Board of Directors and the Publicity and Information Committee. She is currently corresponding secretary of the Association.

ROCKY MOUNTAIN LEGAL ASSISTANTS ASSOCIATION,
Denver, Colo., July 18, 1974.

Re Paralegals.

Senator JOHN V. TUNNEY,
Chairperson, Senate Judiciary Subcommittee on Representation of Citizen Interests, Washington, D.C.

INTRODUCTION

DEAR SENATOR TUNNEY: This letter is submitted by me on behalf of the Rocky Mountain Legal Assistants Association for the hearings of the Subcommittee which will be held on July 23, 1974, concerning paralegals and their potential for lowering the cost of legal representation and increasing the availability of legal services. In connection with this topic, you also asked for views on the accreditation of training programs and certification, or licensing, of paralegals. I would like to express the appreciation of the Association for having this opportunity to present its views to you.

THE LOWERING OF FEES AND INCREASING AVAILABILITY OF SERVICES

The questions here are basically how the services of a paralegal fit into the performance of a task for a client and what effect the utilization of the services of the paralegal has on the ultimate cost to the client. When an attorney takes on a project for a client, the job more often than not involves initial foundation work, editing, and legal analysis. Traditionally, there has been no separation of these tasks. For the most part, the attorney did all of the work. Occasionally, his or her secretary would prepare certain forms, which would be classified as foundation work, but rarely did she do more. It was not until three or four years ago that attorneys came to realize that only legal analysis really required the skills acquired in law school. Foundation work and editing can be performed by someone who is bright and has acquired some knowledge of legal terminology and methods.

In the two years that I have worked as a paralegal in Denver, it has become clear to me that the basic issue in the use of paraprofessionals is the efficient allocation of economic resources. Clients are charged a fee for a task performed by a lawyer, usually arrived at by multiplying the number of hours it took to complete the task by the hourly rate charged for the performing attorney's time. A paralegal's time is also usually billed out at an hourly rate. In Denver, the average paralegal hourly rate is $15. The highest attorney rate ranges from $60 to $100 per hour. If an attorney is open enough to the idea of the separability of tasks, and recognizes in a project those tasks which can be delegated and those which cannot, the performance of certain tasks by a paralegal will result in the ultimate reduction in cost to the client because of the difference in hourly rates. The quality of the product produced will not be lessened because it was done by a paralegal, for two reasons. The first reason is that a paralegal's work is always reviewed by the attorney responsible for the project and, therefore, the work will be subject to the attorney's standards. The second reason is that the more often a product is produced, the higher the quality which will be attained in less time. This means less of an attorney's time will be involved in reviewing the matter, and the savings to the client will be increased.

At this time, paralegals are employed more frequently by private law firms than public agencies. The economic advantages which come from the use of paralegal services by a law firm should also, however, apply to public agencies. There is a great deal of time spent at Legal Aid, for example, on the intake of information and the analysis and organization of that information. These tasks would fit into the foundation work and editing classifications of tasks. For the most part, attorneys are now performing those tasks. Legal Aid here in Denver has about five or six paralegals working in its six offices. Neither the District Attorney nor the Public Defender has a separate position for paralegals. It should be noted that some of the federal agencies, such as the Equal Employment Opportunity Commission, have included paralegals when setting up new offices.

If a paralegal is being used efficiently, either by a law firm or a public agency, the attorney will be able to take on more work, helping more people. The lower costs of legal services will mean that those people who could not previously afford the luxury of legal representation will be able to get the help they need.

The use of paralegals by both law firms and public agencies should be vigorously encouraged, as it will lower the cost of the services to the client, lower the cost of running public agencies as well as law firms, and allow attorneys to reach more people more often while providing better services.

ACCREDITATION OF PARALEGAL TRAINING PROGRAMS

The accreditation of training programs and the licensing of paralegals is an area of great concern to all paralegals. In August of 1973, the House of Delegates of the American Bar Association ("ABA") approved "Guidelines for the Approval of Legal Assistant Education Programs" ("Guidelines") as presented by the Special Committee on Legal Assistants ("Special Committee") of the ABA. Prior to their presentation to the House of Delegates, the Guidelines were presented at a meeting in Denver to a group of people who have been participating for a number of years in the paralegal movement, either as attorneys using paralegals or as directors of paralegal training programs. I am told by several of the participants that the general reaction at that meeting to the Guidelines was that they were inadequate and totally premature. The Special Committee went ahead anyway and presented the Guidelines to the House of Delegates, apparently without reporting the sentiments of the Denver group to the House of Delegates. The Guidelines were approved, criteria explaining the Guidelines have been prepared, and the ABA expects to begin accepting applications for approval this fall. In May of 1974, there was another meeting in Denver sponsored by the Special Committee for directors of paralegal programs from all over the country. At that meeting, the Guidelines were discussed at length. The general reaction of this meeting was that the Guidelines exclude many very effective training programs from qualifying for accreditation, and that this is an unacceptable situation.

There is no adequate definition for the term "paralegal", which also encompasses the terms "legal assistant", "lay assistant", and "legal worker". It has been defined as ". . . one who is not a lawyer nor under the direct supervision of a lawyer, but who needs some legal knowledge to do his job well."[1] It has also been defined as one who can do everything a lawyer can do except give legal advice or appear before the court on behalf of a client. As you can see, both definitions are so vague that they say nothing. One can talk in terms of services provided by paralegals but, again, the discussion usually lacks the specificity necessary for definition. The variety in tasks performed which exists stems from the differences in the law practiced in different offices and agencies, and from the particular needs of each office. Not every office will need a probate paralegal if the amount of probate work is not great. Not every office has the volume of work to warrant specialized paralegals; agencies usually need individuals with specialized skills. Even paralegals specialized in the same areas of law perform different tasks from office to office. The effectiveness of the ABA Guidelines will depend upon a certain amount of uniformity in the paralegal profession which does not exist at this time.

The variety of services provided by paralegals has affected the development of paralegal programs and how they are structured. Some, such as the Institute for Paralegal Training in Philadelphia, recruit only college graduates, train them intensively for three-and-one-half months in one speciality area, and place them primarily in private law firms. Other programs are geared toward public sector law and do not deal at all with probate law or corporate law. Still other programs recruit high school graduates, require that the students take typing and bookkeeping as well as courses in all areas of private sector law, and then graduate them with the equivalent of a two-year college degree.

The Guidelines state that "While the Committee is aware that a variety of educational programs may provide an opportunity for the education of legal assistants, it has determined that standards should be developed for the accreditation of programs not less than sixty semester nor ninetly quarter hours."[2] The Guidelines *do* state that there are other programs which can train paralegals and the Guidelines *do* limit themselves to sixty semester or ninety quarter hour programs; however, it is generally felt by directors of programs and paralegals themselves that once the ABA starts accrediting paralegal programs only graduates of those accredited programs will be employed by law firms. Those graduates of other programs which have been developed to fill the needs of the areas in which they are located will be at a serious disadvantage when seeking employment, even though their program was as good as, and in many cases better than, the accredited program. Up until recently, most paralegals were trained on the job. The Guidelines will exclude entrance into the field by this method and by any means other than completion of an accredited program. This exclusion is one of the main problems of the Guidelines. But the root of the problems with the Guidelines lies with the lack of definition for the term "paralegal". If paralegals are providing such a variety of services, then there will be, and is, a wide variety of programs. In accrediting only one kind of program, the potential for losing that variety is great. The loss of variety in the types of services provided by paralegals would restrict the paralegal to a point of restricting the availability of legal services. It has been felt by many paralegals that accreditation of paralegal programs cannot be effectively done until the paralegal profession has become more established and definitions more clear.

It should also be noted that the Guidelines provide for an accrediting board composed totally of members of the ABA (i.e., attorneys). This is unacceptable to paralegals. Paralegals ought to be on the accrediting board. The Guidelines do provide that paralegal programs have advisory boards composed of lawyers, paralegals and other members of the public, and yet they did not take that requirement the one logical step further and allow paralegals to sit on the accrediting body.

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[1] Yegge and Jarmel, ed., American Bar Association Special Committee on Legal Assistants. "New Careers in Law: II". Chicago: American Bar Association. June, 1971, p. 4.

[2] American Bar Association Special Committee on Legal Assistants. "Guidelines for the Approval of Legal Assistant Education Programs", American Bar Associations, 1973, p. 2.

CERTIFICATION OF LEGAL ASSISTANTS

The inevitable extension of the accreditation of paralegal training programs is the certification, or licensure, of paralegals. It is impossible to discuss certification on any meaningful level unless you are discussing the particular criteria which will be used to certify paralegals. The Rocky Mountain Legal Assistants Association (the "Association") has taken the position that certification of paralegals should be approached cautiously and slowly. The Association feels it cannot be either in favor of or opposed to certification until it is proposed how paralegals will be certified. We do not know of a viable program of certification that has been proposed. The need for certification usually arises out of a need to protect the public from incompetence, fraud or dishonesty. There is no need to protect the public from paralegals as the paralegal, unlike many other licensed paraprofessionals, does not deal directly wtih the public. The paralegal is hired by, and all of his work is performed under the direction and subject to the review of, an attorney, and attorneys are subject to the prohibition of the unauthorized practice of law.

A proposal for certification has been made in California in Assembly Bill 1814 ("AB 1814"), the Certified Attorneys' Assistant Act. The bill creates a board which would, among other things, adopt standards for licensing paralegals and then enforce the regulation of licensed paralegals. This board would be under the supervision of the Board of Governors of the State Bar Association and, when first submitted to the Assembly, was to be comprised totally of attorneys. At this time, however, I have been told that the bill now allows for paralegals and other members of the public to sit on this board. The editors of the Newsletter of the D.C. Metropolitan Area Paralegal Association reviewed this bill. They state in part that:

> Legal assistants have worked in conjunction with attorneys, complementing the attorney's legal knowledge with parallel specialties on a consultancy basis. That firms have indeed hired personnel to conduct substantive nonlegal research in areas such as economics and industrial psychology is an indication of the necessity to retain fluidity and mobility among legal assistants. The editors fail to understand legislation attempting to create artificial boundaries, limiting a profession that is now highlighted not by its homogeneity but instead by its heterogenity. The bill acts as a deterrent to people who cannot pass an examination based on an arbitrarily defined minimum standard. . . . The profession, as it now stands, is not limited in scope or variety. Minority races and women are well represented. Creating a professional guild organization, with the traditional limitations suffered by guilds, would indeed be irresponsible.
>
> The Business and Professions Code of the State of California forbids the practice of law by persons who have not met certain criteria within California (the Unauthorized Practice Statutes). AB 1814 is not aimed at the unauthorized practice of law. It appears, however, to be aimed at the *unauthorized practice of paralegalism*. Since paralegals are not recognized as being directly responsible to clients, and do not receive fees from same, the prohibitions in the bill are unnecessary.[3]

As is the case with accrediting paralegal training programs, the main threat of certification to paralegals is the loss of the flexibility and diversity which now exist in the profession. The problems which exist in determining how to certify paralegals stem from that diversity. Again, until the paralegal profession has become more established and definitions become clearer, certification is an unrealistic and, in fact, a potentially dangerous route. The restrictions which would occur if certification were to take place now would far outweigh the advantages.

Both accreditation of paralegal programs and certification of paralegals themselves are premature ideas. Both are intended to protect the judicial system, but actually both may inhibit severely the development and use of paralegals and their skills. But if these two ideas are to be considered, paralegals must be consulted on every facet of accrediting and certification, as they are the ones who have to live with whatever results.

Very truly yours,

JENNIFER T. MOULTON, *President*.

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[3] Farguhar and Metelits, ed., Newsletter of the D.C. Metropolitan Area Paralegal Association, "Editorial", Vol. I, June 15, 1974, p. 2.

PARALEGAL PROGRAM IN THE OFFICE OF THE SOLICITOR OF LABOR

The Office of the Solicitor initiated a paralegal program in its National and Field Offices in January of 1974. This in-house program (presently consisting of 20 employees) was established to train experienced clerical employees of the Office of the Solicitor to enable them to advance from a nonprofessional to a professional status.

Program eligibility is limited to employees of the Office of the Solicitor who have at least three years experience in legal, quasi-legal or clerical examining work requiring a knowledge of general law or a specialized knowledge of particular laws or regulations. Our paralegal trainees are required to attend a one-week formal training session in Washington, D.C., which encompasses the basics of the legal system, especially with respect to laws administered by the Department of Labor, legal research and Federal Court procedures. Upon completion of the formal training, paralegals receive 11 months of intensive on-the-job training acquiring skills to understand and utilize the processes of the legal system as they relate to work of the Office of the Solicitor. In addition, individuals selected for the program are required to complete successfully at least three semester hours of an appropriate college-level or law school course related to their paralegal responsibilities, without cost to the individual.

The bulk of our program is on-the-job training. The paralegals' supervising attorneys by preparing positive performance evaluations, in fact certify the paralegals' proficiency. Therefore, accreditation of training programs and licensing of individual paralegals would probably not impact on the Office of the Solicitor in terms of those paralegals which we require. Conversely, such accreditation and licensing requirements could work to the detriment of those paralegals which we develop who might seek employment with other Government agencies or private law firms. The relative youth of the paralegal field combined with the diversity of training for such individuals, *e.g.*, on-the-job training, formalized year of study, etc., does not lend itself to standardization for purposes of licensing at this time. Finally, the expense of establishing a licensing authority or authorities could negate those reductions in legal costs which you are hoping to accomplish.

Evaluation of our paralegal program to date indicates that the paralegal trainees have assumed many routine duties formerly performed by attorneys. These include shephardizing, preparing petitions for modification of abatement, preparing complaints and interrogatories, and maintaining court calendars. This has enabled our attorneys to devote a greater percentage of their time substantive legal matters, thereby increasing their productivity.

VENTURA COLLEGE OF LAW,
Ventura, Calif., July 26, 1974.

HON. JOHN V. TUNNEY,
Chairman, Subcommitee on Representation of Citizen Interests, U.S. Senate, Washington, D.C.

DEAR SENATOR TUNNEY: I understand that the Subcommittee on Representation of Citizen Interests is investigating into the paralegal concept, particularly with reference to lowering legal costs. With a background of five years as Director of the OEO-funded legal service organization in Ventura, I have had an overriding concern with the general area. When I became Dean of the law school here, I brought the interest in the paralegal concept with me. I hope I am not being presumptuous in passing my thoughts along to you.

We attempted to get such a program off the ground two years ago (see enclosed bulletin). Most of the interest we did generate came from legal secretaries. The main problem—our program did not have sufficient numbers to begin—seemed to be the position of the employing attorney. The prospective students already employed as secretaries could not see the education enhancing their careers within the present structure of the law office. Which brings me to licensing.

Until the paralegal is recognized as a separate profession, designed specifically to let the attorney utilize his or her time to the best advantage, the concept will not work. It seems to me the best way to achieve his recognition is in some kind of licensing provision. Moreover, the licensing should be done by the State Bar Associations. In this way the Bar will be directly involved in establishing standards, and will more readily accept these persons into the profession.

I have very little doubt that licensing will attract many students to this field, also.

Offering a curriculum for this area, where there are no standards, may very well offer a disservice to the student. With licensing provisions, the schools would be better able to offer courses that would cover the proper areas, leaving room for innovation outside the areas covered for licensing.

Furthermore, it seems to me that some sort of control over the program, content and quality of any particular school should be exercised. Whether you call this accreditation, or whatever, there is too great a possibility of enticing students into a program strictly from the money-making potential, without really training these people to function as a paralegal. It is one thing to license the paralegal. It is quite a different matter to offer, for tuition, a course and then not train the bulk of the students sufficiently to be become licensed. Probably, with cooperation, the Bar Associations could best exercise some control over schools that wish to offer a paralegal program.

There is no doubt that something must be done regarding legal fees. The OEO structure, inadequate as it was in funds, could offer only minimal service to the lowermost income group. Group legal services will never reach all persons.

It appears to me that the paralegal offers a hope of serving that middle level of income that cannot afford to pay the fees at the present level. Looking back on my years in private practice I find the time that I wasted on tasks any trained person could do to be incredible.

Because of the above, I was gratified to learn of the subcommittee and its work. I would appreciate being kept abreast of further developments.

Yours truly,

FRED J. OLSON, *Dean.*

DIVISION OF PARALEGAL STUDIES, VENTURA COLLEGE OF LAW, BULLETIN 1972–73

President and Dean, Fred J. Olson

Vice President, Gerhard W. Orthuber

Director, Thomas K. Haney

Director, Kenneth D. Cleaver

Director, Richard E. Erwin

FACULTY: FALL QUARTER, 1972

ENGLISH IN LAW

Barbara A. Derryberry, B.S., M.S.

B.S. in Business Administration, San Fernando Valley State College; M.S. in Business Administration, San Fernando Valley State College; past instructor of Business Communications and Records Management at SFVSC; presently instructor at Ventura Community College.

INTRODUCTION TO LAW AND LEGAL ADMINISTRATION

Jack Doherty, B.B.A., A.B., J.D.

B.B.A. in Business Management, Woodbury College; A.B. in Liberal Arts, Stanford University; J.D., Stanford University; presently head of contracts department at Santa Barbara Research Center and in private practice.

LAW AND SOCIETY

Fred J. Olson, A.B., M.A., J.D.

A.B. in Political Science, Stanford University; M.A. in Government, California State College at Los Angeles; J.D., Stanford University; instructor of Torts and Contracts at Ventura College of Law, Business Law at Ventura Community College; Dean, Ventura College of Law.

SCHOOL CALENDAR—1972–1973

FALL QUARTER

Classes begin—July 31.
Labor Day—September 4.
Final exams—October 9–October 13.
Quarter break—October 16–October 20.

WINTER QUARTER

Classes begin—October 23.
Thanksgiving—November 23.
Christmas vacation—December 25–January 5.
Final exams—January 15–January 19.
Quarter break—January 22–January 26.

SPRING QUARTER

Classes begin—January 29.
Final exams—April 9–April 13.
Quarter break/Easter vacation—April 16–April 20.

SUMMER QUARTER

Classes begin—April 23.
Memorial Day—May 28.
Final exams—July 2–July 6.

PURPOSE OF PARALEGAL STUDIES

The purpose and goal of this certificated program is to train persons who will be able to function within the framework of law and legal institutions as paraprofessionals.

The graduates of this program will be skilled technicians in the law. They will be experienced in all of the areas in which they may be of service to practicing attorneys. They will be knowledgeable in research, pleading, the drafting and interpretation of instruments and investigation. Additionally, they will be prepared to participate in the solution of accounting and tax problems, and they will be qualified to act as managers of law offices.

In order to achieve these skills, the graduate will learn of the practical and theoretical aspects of the major areas of the law, the legal basis of both local government and business organizations, and the background of legal institutions and jurisprudence in this country.

Teaching in the paralegal study division of the College of Law will be varied. A combination lecture, case-study method will be used. Most courses will be problem-oriented so that the student will apply the cases he studies and the rules he learns to realistic factual situations. In this manner the graduate will master the basis of legal reasoning and its application to the practice of law. Furthermore, through faculty review of his work, he will be knowledgeable in the drafting and preparation of a multitude of legal documents.

Of course, the certificated legal assistant or administrator will not be able to practice law as such. But, since he will perform an increasingly important role in the legal profession under the supervision of a licensed attorney, his career will be very rewarding, both to society and himself.

OPPORTUNITIES

In August of 1968, the American Bar Association's Committee on the Availability of Legal Services, in its report to the House of Delegates, recommended:

"that the legal profession recognize that freeing a lawyer from routine detail, thus conserving his time and energy for truly legal problems, will enable him to render his professional service to more people, thereby making legal services more fully available to the public."

Subsequent to this a special committee of the ABA concluded that the American Bar is receptive to paralegal concepts and that the services of paralegal professionals will permit lawyers to serve much larger than normal clienteles in the hours available to them.

In May of 1971, the ABA made preliminary curriculum recommendations for paralegal studies. It is also recommended that the professional positions of Legal

Assistant and Legal Administrator be certificated through the use of nationwide examinations.

The Ventura College of Law, in conjunction with a private firm engaged in education, has developed the curriculum which appears in the following pages. This curriculum closely follows the courses recommended by the ABA.

It appears that numerous opportunities soon will be available to paralegal professionals, and that these opportunities will increase significantly in the years ahead.

The Ventura College of Law has pledged itself to educate and train highly-skilled persons to assist in the field of law. In addition, they will form a specialized placement service. Though no guaranty of individual placement can be made, this placement service will be dedicated to the creation of suitable vocational opportunities for paralegal graduates.

LEGAL ADMINISTRATION COURSE OF STUDY

Legal assistants

A student who successfully completes 45 specified quarter units will be awarded a "Legal Assistant" certificate. This goal may be achieved in five academic quarters, each consisting of three evenings per week of class attendance. All of the courses in the 401–415 curriculum series are required for this certificate.

Legal administrators

A student who has received a "Legal Assistant" certificate will be eligible to receive a "Legal Administrator" certificate upon the successful completion of 15 additional quarter units of specified courses. This additional goal may be achieved in two additional academic quarters, one consisting of two and the other of three evenings per week of class attendance. All of the courses in the 501–505 curriculum series are required for this additional certificate.

B.S. in legal administration

A student who enters this program with 60 undergraduate college units or more and with an undergraduate grade point average of 2.0 or more may be eligible for a B.S. degree in Legal Administration upon the successful completion of all of the above-mentioned courses (see *Requirements for Admission*).

REQUIREMENTS FOR ADMISSION

The Paralegal Division does not consider an applicant's sex, race, national origin or religion in determining eligibility for admission.

The basic minimum entrance requirements for both the Legal Assistant Certification Program and the Legal Administrator Certification Program are the same, as set out below.

LEGAL ASSISTANT/LEGAL ADMINISTRATOR CERTIFICATION PROGRAMS

An applicant may apply for admission only under one of the following three categories.

Category one: High School Graduate; No Secretarial Experience

The admissibility of high school graduates with no secretarial experience and less than one year college work is dependent upon their cumulative high school grade point average. Applicants with a GPA of 2.80 or higher are eligible for admission; applicants with a GPA under 2.00 are ineligible.

Applicants with a GPA falling between 1.99 and 2.80 must submit all high school and college transcripts and the scores obtained on the Scholastic Aptitude Test (SAT), and must have an interview with the Dean or Associate Dean of the College. (The verbal score of the SAT will be weighed heavily in considering eligibity of the applicant.)

Each applicant's eligibility will be determined by the College.

Category Two: Applicants with Secretarial Experience

An applicant with at least two years experience as a secretary may be eligible for admission without reference to school transcripts or SAT scores. There must be written verification of the experience by employers, and an interview with an administrator of the College.

Category three: Applicants with College Credits

An applicant having successfully completed at least one year of college (30 semester or 45 quarter units) with a cumulative GPA of 2.00 or better, and having been in good standing at the time of departure from the last college attended, will be eligible for admission.

Degree program

An applicant for a B.S. in Legal Administration having successfully completed at least two years of college (60 semester of 90 quarter units) with a cumulative GPA of 2.00 or better, having been in good standing at the time of departure from the last college attended, will be eligible for admission.

Audit-non credit

An applicant who qualifies under any of the above-mentioned categories may take any class on an audit (non credit) basis.

ADMISSION PROCEDURES

1. Submit a completed Application For Admission form, accompanied by the $10.00 application fee.
2. Submit the documents that are required in the category for admission under which you are applying:
   a. Official transcripts of the last three years of high school.
   b. The scores from the Scholastic Aptitude Test.
   c. Proof of two years employment as a secretary.
3. Have official transcripts from all colleges and high schools attended sent directly from the issuing institution to the Ventura College Law.
4. Submit at least two letters of reference attesting to the good moral character and the scholastic ability of the applicant.
5. Arrange for an interview with an Administrator if required or requested.

A deposit of $50.00 (applied toward tuition) is required of each applicant upon notice of acceptance. Acceptance may be cancelled if the deposit is not paid when due. The deposit will be refunded only in exceptional instances (induction into military service, death, etc.).

PAYMENT OF TUITION

Tuition is due in full and payable at the time of registration for each quarter. Students may defer two-thirds of tuition over each quarter, but the balance must be paid in full at least three weeks prior to the end of that quarter. A charge of $2.00 per unit will be incurred for such service.

Students previously placed on probation, or students registering for their first quarter of study, must pay tuition in full when they register.

Checks should be made payable to Ventura College of Law.

TYPING REQUIREMENT FOR GRADUATION

Typing proficiency at a fifty words per minute level is a requirement for graduation in Legal Administration. Each candidate must pass an examination or furnish the College with evidence of this level of proficiency at least four weeks before graduation. One year's experience in the past ten years as a clerk-typist, stenographer or secretary will fulfill this requirement if evidenced by a letter or letters from employers that the candidate has served in a typing capacity.

Expenses

Fees (Non-refundable):

Application	$10.00
Registration deposit (applied to tuition)	50.00
Paralegal students association (per quarter)	2.00
Late registration	5.00
Change of program	5.00
Special examination	15.00
Reexamination	45.00
Transcripts	1.00
Graduation	35.00

TUITION

The tuition charge is $30.00 per unit. The same charge is made to those students attending on an auditor basis.

REFUND POLICY

Tuition will be refunded on the following schedule if a student withdraws at any time after registration and prior to the end of:

	Percent
First week	80
Second week	40
Third week	20

No tuition will be refunded after the third week.

BOOKS

It is estimated that the cost of books and supplies is approximately $100 per year.

CURRICULUM

401 Introduction to Law and Legal Administration (3 units): A basic introductory course to give the student an insight on the method of studying law and cases; the broad application of law, its development and its institutions; the legal ethics of the law profession and the relationship of legal assistants thereto.

402 Law and Society (3 units): A survey course of some of the social problems of the times and their legal aspects: Consumer protection; ecology and law; poverty and law; creditor-debtor and other areas of major issue today.

403 English in Law (3 units): The fundamental application of the English language in law; the reduction of legal principles and reasoning to the written word; legal writing and its particular problems.

404 Wills and Trusts (3 units): A study of the disposition of property by will; by intestate succession; and by trust, both inter vivos and after death by will. The basics of estate planning will be encompassed.

405 Family Law and Community Property (3 units): A basic course on marriage, dissolution, annulment, separation, children—paternity, custody, adoption and support; includes community and separate property and selected problems in this area of the law.

406 Business Law (3 units): Relates mainly to a study of contracts, their information and breach, and defenses thereto. The law of sales and title to goods is included.

407 Personal Injury Practice (3 units): A study of the law of negligence and strict liability with emphasis on fact-gathering and investigation techniques; includes pre-trial and discovery procedures.

408 Law Office Management I (3 units): The techniques and practice of the legal assistant or administrator in the private practitioner's office; filing systems and maintenance; library and its upkeep; research memos, briefs and forms and their indices; billing procedures, bookkeeping and accounting; organization of the law office.

409 Pleading—Writing and Research (3 units): A problem-oriented course, with selected areas of the law presented for the drafting of complaints, answers, legal memoranda and briefs; research and writing techniques.

Prerequisite: English in Law (or instructor's permission).

410 Law in Government (3 units): A survey of the practice of law in local government in various agencies such as the Public Defender, District Attorney, County Counsel and other county and city offices; special emphasis on the place of legal assistants and legal administrators in local government.

411 Law in Business (3 units): A survey of the practice of law within the fields of commerce and industry; house counsel; legal aspects of administration; taxes. Course will emphasize the place of legal assistants and legal administrators in business.

412 Evidence and Discovery (3 units): A study of the law of evidence as it relates to preparation for trial; how the legal assistant may aid the lawyer both in preparation of a file and in pre-trial discovery.

413 Probate Administration (3 units): The practical aspects of probate administration will be presented in this course; problem-oriented with hypothetical case problems solved by the student.

Prerequisite: Family Law and Community Property.

414 Creditor-Debtor Relationships (3 units): A study of the more common areas of consumer credit; conditional sales contracts and chattel mortgages, the law and documents. Bankruptcy, procedure and practice.

415 Business Finance (3 units): The organization and continuation of business enterprises, including management of finances. Capital structure, budgets, sources ad nature of capital and problems encountered in financial operation.

501 Law in Business II (3 units): A continuation of Law in Business I, with concentration on typical areas of interest to Legal Assistants and Legal Administrators.

Prerequisites: Law in Business I; Business Finance.

502 Law in Government II (3 units): A continuation of Law in Government I, with concentration on typical areas of interest to Legal Assistants and Legal Administrators.

Prerequisite: Law in Government I.

503 Law Office Management II (3 units): A continuation of Law Office Management I; however, the course will concentrate on specific areas of law and how they are handled in private practice.

Prerequisites: Law Office Management I; Probate Administration.

504 Law Office Organization (3 units): A study of the law of agency, partnerships and corporations; the legal aspects of formation and management as it relates to shareholders, officers and directors.

505 Real Property (3 units): A study of the legal aspects of real estate; transfers and sales; estates; escrows; recording statutes; security instruments and methods.

SAN FRANCISCO ASSOCIATION OF LEGAL ASSISTANTS—ANNAL SURVEY, 1973

INDEX

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THE SURVEY

The following survey was conducted by the San Francisco Association of Legal Assistants between January and March of 1973. The responses by and large reflect the state of the profession in the larger downtown San Francisco law firms, although a few assistants working in corporations and government agencies respondend as well.

The survey did not successfully reach even all assistants in the larger firms, but it is clear from the responses received that there are well in excess of 100 legal assistants presently employed in downtown San Francisco alone.

The survey was conducted on an anonymous basis, therefore it is not possible to state with accuracy how many different firms are represented in the results. From the information provided however, it is possible to categorize by extrapolation the respondants in terms of numbers employed by various sized firms, and the distribution of practice areas engaged in. Those figures are as follows:

Firm size	Total assistants	With litigation	Corporate	Probate
Attorneys				
50 plus	41	30	3	5
30 49	27	14	2	
20 29	21	8	4	5
10 19	15	14		
5 9	2		1	
Less than 5	2	1		1
Total	108	67	10	1

[Blank spaces and discrepancies between totals and the area breakdowns are reflective of the fact that while firm totals were reported, area breakdowns were not available in every case.]

As might be expected, the larger the firm, the more legal assistants employed. But it is interesting to note that it is not only the very large firm who utilizes assistants. There are in fact practices in this City operating on a 1 to 1, or almost 1 to 1, ratio between attorneys and assistants.

BASIS

The survey was conducted in two parts. The first dealt with job descriptions, and criticisms and praise of the profession, and the second with salary levels and billing rates. The second portion of the survey was updated in September of this year in order to obtain the most current figures available prior to publication.

The first portion of the survey has the following foundation:

Responses received 70 (Not all questions answered for all responses.)

Age Breakdown:	
40 plus	5
35 to 39	2
30 to 34	3
25 to 29	19
Under 25	17

Distribution of those responding, to firm size:

Firm size (Attorneys):	*Number of Individuals Responding*
50 plus	35
30 to 49	8
20 to 29	13
10 to 19	4
Less than 5	2

The basis of the second portion will be detailed in Section E.

PROFILE OF THE AVERAGES

The average legal assistant in downtown San Francisco is female, between 22 and 29 years of age, with a college degree in a liberal arts field and little or no prior legal experience or training. She is employed by a firm of twenty or more attorneys, to work in litigation. The bulk of those assistants presently employed, have held their positions between 9 months and 1½ years. Virtually none of these assistants handle their own typing or clerical tasks.

The picture changes somewhat in two particular cases, first in the smaller firm, and second in the probate area. In the smaller firm, the assistant/secretary combination is more often found. The economics of practice make many attorneys in smaller firms opt for this combination, especially when first instituting a legal assistant program.

Therefore also, a higher percentage of the full-time assistants in the smaller firms are former secretaries.

Similarly, a higher proportion of former legal secretaries are found among the assistants working in the probate area—not so much for the economic factors, but because of the nature of the work itself. Probate practices have utilized non-lawyers as "clerks" and assistants for some time. These same people are now being designated as legal assistants. Since probate is a more technical area than many others, attorneys have also often found it advantageous to utilize former probate secretaries, already familiar with the terms, forms and procedures of the field, as legal assistants. Thus, there is also a higher percentage of formally trained assistants employed in the probate area.

In the remaining practice areas, however, there is a small percentage of both former secretaries and formally trained legal assistants. The lack of formal training stems basically from the lack of such training programs in the Bay Area. Several such programs have begun however in the last year, and while the lack of training available heretofore does indicate that local attempts at on-the-job training have met with considerable success, it is expected that the proportion of formally trained legal assistants employed locally will be increasing in the near future.

The following sections detail the range of comments made in response to several areas of questioning. An attempt was made to select responses reflecting the entire range of opinions expressed. In some cases responses reflecting similar thoughts were edited into a single entry.

JOB DESCRIPTIONS

Below are lists of functions performed by legal assistants in the various practice areas as indicated by their responses to the survey. Alongside each function is a rating, indicative of the frequency with which the task appeared in the job descriptions of all respondents in that practice area. (This is only an estimate and not a specific statistics.) The functions are rated 1 to 5, 1 indicating a task performed by few legal assistants, and 5 indicating a function performed by nearly all.

For additional information on job descriptions, please refer to the appendices and bibliography attached to this report.

Litigation Function:	*Frequency*
1. Preparation of interrogatories and answers to same	3
2. Organization of files, including establishing and maintaining index systems	4
3. Summarization of trial transcripts and depositions	4.9
4. Preparation of deposition questions	2.5
5. Preparation of witnesses prior to their depositions or testimony at trial	2
6. Client and witness interviews for factual information	2.5
7. Factual investigation, including: background information on parties to the case, financial data, medical information in personal injury, case chronologies, newspaper archives, prior suits, background of experts and other witnesses, investigation of accident scene, correlation of evidence, etc	5
8. Draft complaints, answers, requests for admission, simple motions, etc	3
9. Assist in document production by determining information available, inspecting documents produced, etc	3
10. Calendaring	2
11. Attend and report on hearings in related cases	2
12. Billing and bookkeeping	2
13. Preparation of graphs and charts for trial exhibits	3
14. Attendance at trial to assist in coordination of witnesses and documents. Also in some cases to work with trial attorney on witness examinations.	1.5
15. Prepare wage loss statements, life expectancy charts, and other similar damages calculations	2
16. Proofreading	2

In addition to the general tasks listed above, many respondents described more specific functions which pertained to the practice of law in their particular firms and did not appear often enough to rate as above. Some of these were:

1. Analysis of maps in connection with property litigation.
2. Processing bankruptcy claims for unsecured creditors.
3. Develop original backup for damage sections of subrogation cases.
4. Price studies for anti-trust litigation.
5. Checking compliance with fair trade regulations.
6. Anatomical drawings for trial exhibits in personal injury.
7. Foreign language translation.
8. Supervise document encodation on a computer project.
9. Statistical studies.
10. Investigate location of witnesses for process service.
11. Trace corporate successers of a given firm, research holdings, assets, liabilities, etc.
12. Editing briefs.
13. Prepare summary memoranda on discovery to date, further discovery needed, factual strengths and weaknesses, etc.
14. Finding transcript references for Findings of Fact.
15. Summarize information from pleadings.
16. Research jury verdicts.

17. Prepare profiles of prospective jurors from jury book and evaluate.
18. Research medical issues and diagnostic procedures.

Unfortunately, there were not enough responses in either the categories of Corporate and Real Estate or the category of Probate to make frequency ratings meaningful. Therefore, functions from the job descriptions in these practice areas have been simply listed.

CORPORATE AND REAL ESTATE

1. Draft closing papers, Estoppel Certifications, Articles of Incorporation, By-Laws, Minutes, Assignments of Contracts, Fictitious Name Statements, Substitution of Trustee.
2. Handle all documentation for Real Estate closings, including correspondence with Title Companies.
3. Assist in the preparation of stock transfers, permit applications, Board and Shareholder proceedings, maintain stock certificates.
4. Assist with corporate name protection in foreign states, and qualification.
5. Blue Sky.
6. Ongoing corporation review and record management, including maintenance of questionnaire for each corporate client, and minute book.
7. Assistance in mergers and dissolutions.
8. Maintain a calendar of all filing requirements of foreign corporations and file all annual reports.
9. Do background investigation of potential investments.

PROBATE AND TAX

1. Controlling work flow.
2. Docketing.
3. Factual investigation from clients, clerks, referees, newspapers, trust officers, etc.
4. Work with clients in assembling assets, preparing stock evaluations, charts and accountings.
5. Drafting petitions, inventories, judgments, estate tax returns, inheritance tax affidavits, and court accountings.
6. Draft wills.
7. Drafting pension and profit sharing plans. Preparing needed tax and corporate forms required for adoption of plans.
8. Preparation of gift tax and fiduciary returns.
9. Drafting inter-vivos trusts.
10. Preparation of final accounting upon final distribution.
11. Preparation of creditors claims for estates.
12. Mailing notices to remaindermen and beneficiaries.
13. Dealings with bank officers in connection with trust administration.
14. Preparation of inventories and appraisements for estates.
15. Collect data in connection with 706 audits.
16. Collection of insurance proceeds.
17. Opening of safe deposit boxes.

OTHER

A few assistants in San Francisco have jobs or perform tasks which do not fall easily into the above categories. They are:

1. Assist attorney engaged in work on federal legislation by researching proposed legislation, attending committee hearings and Board meetings, and performing functions of a lobbyist.
2. Handling collection matters from complaint to satisfaction, including executions and garnishments.
3. Work for a government agency involving state and local coverage under Social Security. In this connection the legal assistant performs the following: examination of all documents for determination of legal clearance or require additional factual information, reviews all documents for appropriateness of legal format, date of execution and signature; determines whether entities to be covered by modifications qualify as political subdivisions under existing legal precedents; whether effective date of coverage and controlling date are permitted by Federal law as interpreted in manuals and legal precedents, and whether all required certifications supporting documents and information have been furnished. Determine whether the State statutes cited as a basis for the disso-

lution on their face are pertinent and support the State's position. When a case is referred to an attorney for legal review, the assistant assembles and presents with the incoming documents the relevant State statutes and precedent legal opinions, as well as preparing an analysis and draft recommendation of the dissolution of the case.

With respect to the Federal Medical Care Recovery Act, the assistant performs the following: establishes internal controls, determines file status; develops necessary factual information; determines whether recovery action is warranted and proceeds with developing the action with notices of claim, etc.; answers inquiries directed to the office from insurance companies and others in all but the most difficult of questions; prepares correspondence for signature of responsible attorney; prepares draft referral letters to the United States Attorney.

In certain cases has also been given the authority to negotiate with plaintiff's attorney to affect offer in compromise or waiver of the Government's claim. In instances of this nature, is given a negotiating range prior to the conference.

In general, relieves the attorney to the fullest extent possible, including the examination of legal documents which are presented, preparing necessary legal instruments for execution by the Regional Attorney; and providing the responsible attorney with an analysis of the case.

COMPLAINTS AND PRAISE

The survey also provided the legal assistants responding with the opportunity to express their personal opinions on several issues relating to their work. Some comments were repeated almost unanimously by the respondents, and others revealed rather unique experiences. I have selected some of the most representative, and some of the most unusual comments for inclusion into this section which are grouped into broad sections.

I. Responsibility, Position Within the Firm, Job Content

Generally, the biggest complaints in this category lay with poor job definition and lack of effective communication. The assistants are split with regard to the extent to which their jobs are felt to be boring and repetitious, as opposed to varied and challenging, but the majority seem to be on the "varied and challenging side." There is a similar split between those who are given their work on a "piece-meal" basis with little or no coordination with the case whole, and those who are actually assigned to a case start to finish. All agreed, however, that their work is much more meaningful, both intrinsically, and, in the sense of having offered a contribution when they are allowed to follow a case from commencement to resolution. Some of the comments:

(1) There is insufficient feedback, I see neither the end products, nor the rewards of my work.

(2) Attorneys still have not learned how to delegate their work effectively . . . they still have not grasped fully the part the legal assistant can play in a given case . . .

(3) There is a reliance on assistants for boring assignments only . . . we do only those things the attorneys *don't* want to do . . . "If you like law, but not the dull parts, you should become an attorney and hire yourself a legal assistant." . . . There is not much to my job that is not repetitious routine.

(4) The best thing about my job is the variety and the scope of duties . . . I feel I am definitely required to use my intelligence and judgment . . . challenging . . . extremely interesting.

(5) Attorneys as individuals, and the office as a whole are not organized enough to (a) spot the work that needs to be (or *could* be) done; and (b) delegate it before the last minute. Lulls between the panics . . .

(6) One of the biggest problems is still poor job definition.

(7) Only occasionally is a full description of the case I am working on provided, it really stifles my ability to work well.

and similarly—

I wish we could get off the "piece work" system, and allow legal assistants to be assigned to cases just as attorneys are. It would mean so much more if I could stay with a case from start to finish.

(8) I have no chance to discuss improvements with the persons who could effect the changes.

(9) The attorneys are willing to let us try anything we think will work; they also give good constructive criticism. The work is also made meaningful by the fact that we know they are going to rely on our work and respect our opinions.

(10) There should be more opportunities for client contact.

(11) The firm as a whole is not committed to the use of legal assistants, and some attorneys will not use us at all.

(12) Some attorneys cannot see that there is a real distinction between secretaries and legal assistants.

(13) It seems like we are constantly reminded that we are not very important, yet the caliber of the work performed is that of an associate.

(14) I am still asked to do secretarial jobs. The attorneys do not seem to be aware of my abilities.

(15) Hopefully, assistants will be given more responsibility in the future. Because of the overabundance of educated people, the profession is able to find highly qualified personnel; they should be treated accordingly as educated and intelligent professionals.

(16) The attorneys have a condescending attitude toward us, which is not helped by the fact that the majority of the people currently in the profession are female.

(17) Much more responsibility could be given to us.

(18) Unqualified people are coming into the field, lowering its "professional" standards.

(19) We have independence and the freedom both to be largely self-supervising, and work at our own pace.

(20) I am very much in limbo between secretaries and attorneys, which makes the job rather isolated at times.

(21) It seems to me that the larger the firm, the more one dimensional and routinized the legal assistants' tasks. In a small firm, there is much less of a rigid hierarchical attitude, communication is better, and people tend to be recognized according to ability, rather than "position". Hence, the pay at smaller firms tends to be better also.

(22) I think the best course for a legal assistant is to become as involved in as many different aspects of one case as possible. As this happens, you become a resource regarding the facts for the attorneys. Consequently, you also become more valuable to the firm, and not so easily replaceable. Doing this, however, does take initiative, if not also a bit of aggressiveness to overcome the attorney's initial reluctance to both delegate meaningful work and confide in you.

(23) Paralegals are invaluable to the law. They should have greater opportunities for stimulating work in smaller firms where they could substitute for associate attorneys. They are not so fortunate in larger firms where there are many associates, which relegates the less stimulating work to the paralegals.

(24) There is a definite lack of willingness to delegate responsibility from the attorneys. This could be remedied by training the *lawyers*. Some legal assistants I know are doing final drafts of legal briefs with only perfunctory review from the attorneys.

(25) There is a failure to rely on our nonlegal research findings, and respect our opinions.

(26) They waste our time in clerical functions that do not utilize our abilities and could be easily done by a secretary or clerk.

(27) We are still fighting the "legal assistant-super secretary" mentality.

(28) There is a definite problem getting the attorneys to overcome their skepticism of the capability of a non-J.D. doing things which involve responsibility. I really wonder if we can get away from the dead-endedness of our work without a law degree.

(29) The primary problem in the field is job definition. The attorneys and assistants need to get away from a monolithic conception of the legal assistant where he or she does only so many things in a certain way, to one which is multi-leveled and multi-faceted in approach and in ability. Continuity will have to be established also between assistants who have been in-house trained and those who have been through some sort of course training.

(30) I like the independence of this position—no one is constantly looking over my shoulder.

(31) Most of the time the job is extremely boring with next to no intellectual stimulation. The variety is ostensibly there, but in fact provides a poor range of activities.

(32) Because there is little hope of alleviating the boredom of the job within firms, a partial solution might be to create a "job pool". On a confidential basis paralegals could arrange to "switch" jobs with equally qualified paralegals from other firms desiring a change. Innovations could be transferred from one office to the other, thereby leveling off some of the duty discrepancies that now exist between firms. Employers would probably like this system because it would mean a minimum of time and money lost in training a new assistant.

(33) Regular meetings should be held between attorneys and assistants to discuss successes and failures of the program, and generally bridge the communication gap. This would also help make assignments and expectations more clearly defined.

(34) Attorneys are not willing to accept the fact that legal work can be done by someone with no law school, and who has not passed the Bar. Speaking generally, their opinion of themselves is a little too exalted.

(35) It would help if legal assistants were allowed more client contact particularly in the initial stages of interviewing.

(36) Attorneys need to be made aware of what a legal assistant can do. [Note: This statement was repeated in one form or another on at least 98% of the responses.] But before this can happen, they have to *want* to use them. Among the "older guard" attorneys, there is a reluctance to even acknowledge legal assistants.

(37) Hopefully, as more attorneys "try it" they'll "like it".

(38) In smaller firms there seems to be a lack of definition of duties ("Never-Never Land" syndrome) and resistance from some attorneys to delegate their work. Built-in distrust has to be overcome before more responsibility will be delegated to the assistant. I think it is largely a matter of trial and error and some kind of evolution, but I can speak only for my small firm. The larger firms seem to have things more organized. [Note: Not apparently true from the tone of the responses.]

(39) Generally, I think we need greater recognition for the contributions we *are* making to our firms, including more adequate pay. Job duties could also be expanded, and training made less haphazard.

(40) The job cannot be viewed as a career because there are no steps to be taken *up*. The job was created with self-defined limitations and purposes in mind.

(41) I see a large discrepancy between people's legal needs and the way the legal profession is meeting those needs—e.g., accessibility of lawyers at reasonable fees. I think there will be an increasing demand for paralegals to handle things one does not really need to pay an attorney to do.

[Note: The "lay advocate" approach being pursued in the public law sector is aimed at this problem.]

(42) I get extremely upset by attitudes such as that portrayed at the ABA convention in the summer of '72. The whole emphasis of their legal assistant program was *not* on how the utilization of legal assistants can help bring costs down for the client, but how they can free the attorney to have more time to play golf! This kind of remark was made several times.

(43) I wish the Bar would approach us as an entity existing to their advantage, rather than as a necessary evil.

(44) Minus points of the job: low pay, low status, "professional" stuffiness and the patronizing attitudes of some of the attorneys.

(45) This seems to be a promising and perhaps very interesting career. But guidelines for breadth of work are clearly in order as attorneys are inclined to dump everything short of conducting the trial into the laps of the assistants—particularly those things which are least enjoyable. Some of that is inevitable due to the nature of the profession; but why should paralegals who are generally as intelligent as most lawyers, be relegated to entirely clerical tasks such as proofreading or tabbing documents.

(46) There is a problem at the hiring end in that those who do the hiring know very little of the realities of the job. I think this has been overcome in firms who allow the assistants to screen the assistant applicants themselves.

(47) If I have any ill feelings about my job, training, communication, etc., the attorneys prefer just not to hear about it.

II. Education and Training

Some of the assistants had comments or suggestions with respect to both in-house training and the value of academic courses in legal assisting. While opinions on the value of academic courses in legal assisting varied, almost all assistants expressed the desire to have some form of meaningful "continuing education" made available to them. Virtually all respondents who participated in the six week course in legal research given by the Morrison, Foerster firm last summer had high praise for the course, and cited it as an example of the kind of program they would like to see more of. Some comments:

(1) There is no effort in this firm to teach me specific tasks that I can then develop to expertise over a number of cases.

(2) It would be most beneficial if the attorneys would consider my duties within the scope of the entire case. If I were allowed to observe, for example, procedures that affected the case, even if they did not bear on my duties in particular they would help me understand the framework within which I was working and perhaps also to make more of a contribution. It would be most helpful if I were allowed to sit in on client interviews, depositions, hearings on motions, settlement conferences, and the like—at least occasionally. It would also help tremendously if the attorney remembered to inform me when important aspects of the case developed. This could be as simple as forwarding important pleadings or pieces of correspondence. Otherwise I have no way of being kept abreast, other than constantly inquiring of the attorney.

(3) Training programs and specialized degrees could certainly help the professional image of our positions. But it is also true that in a more generalized practice area, such as litigation, the most valuable skills are learned on the job, rather than in the classroom. I have heard graduates of the Philadelphia Institute say that while the Probate and Corporate courses provided meaningful job skills, the Litigation course proved of little utility in the actual performance of their jobs. Therefore, the value of specific pre-job training is debatable, at least in some areas.

I personally have found more value in concurrent, or continuing type education. Once training is placed in the context of a specific job it is much easier to decide what particular skills and areas of knowledge are still needed, and it is also generally more meaningful. [This was one of the respondents also praising the Morrison course.]

(4) If lengthy post-B.A. education becomes the requisite for legal assisting positions, it will discourage intelligent people from choosing a paralegal career, since in that event they might as well put in the time attending law school. If on the other hand, legal assisting curricula are made available at the undergraduate level in respected universities, it might go a long way towards making this field much more a profession. I am discouraged by the fact that most of the undergraduate-level efforts at this time are being made by junior colleges, as I think this dilutes the standards of academic achievement we should be striving for, as well as diminishing the professional image.

(5) My firm actively encourages the development of my education by paying for courses I take outside the office. I do not know how many other firms have the same policy, but I know that it has been a great help to me.

(6) It would be very valuable if the attorneys took a little time to suggest outside reading for me. As it is, I pursue extra reading on my own, but I do not really know the best sources for the kinds of things I should know.

(7) The job of a legal assistant at its best requires responsibility and a free ranging intelligence, attributes of a professional. It should be treated as a profession and not a job in limbo. At its best, it also requires a minimum of a four year education. While classes in technicalities might be useful adjunct, they cannot substitute adequately for a broad education.

(8) Most of the work of a legal assistant involves judgment and intelligence rather than experience.

(9) I think there is too much emphasis on training. The work is simply not very difficult, either to learn or to perform. I do not know what the answer is. Basically, there is dull work that has to be done by someone. If you like law but not the dull part you should probably be an attorney—and hire a legal assistant. Someone is going to have to do that work, and creating a corps of highly trained paralegals is not going to change the fact. Personally, working as a paralegal has taught me what I *don't* want to become—I am going to attend medical school next fall.

(10) As it is now, the field does not seem to be much of a profession. I suppose until there is a more precise job definition with standards or certification, the duties cannot really expand too far. As things stand, it seems unnecessary to have too much in the way of formal training because the educational standards

are so high at hiring, and learning the job as it is now is a simple process. Personally, I look at this job as an interim position that provides a way to earn money without being a secretary while I am pursuing my Ph.D. I really cannot see it as a profession someone with my training would be willing to pursue.

III. Working Conditions

The still rather undefined status of legal assistants poses further problems for some in terms of their working conditions, i.e., office space, secretarial assignments, and the like. From the responses received, it appears that situations are quite variable in this category. Some assistants have private offices and specific secretaries assigned to do their work. At the other end, some assistants sit in large rooms with several others, and have their clerical work handled on an "whomever is available" basis. Clearly, some of this problem is due to the physical limitations of certain office buildings and staffing difficulties. But some assistants have expressed resentment over the fact that their firms have materially changed their space available, or moved to new quarters, giving them the opportunity to afford better working conditions for the assistants, and have still placed the assistants in secretarial carrels or in large rooms together. Some of the comments:

(1) We have the same amount of desk work, we dictate, we interview clients—in short we have the same need for privacy and quiet as the attorneys. Yet we are expected to work in a large room together. This provides many distractions, *no* privacy, and greatly impairs efficiency.

(2) I could be much more productive if given adequate secretarial assistance. Not only is it time consuming to have to keep on top of several secretaries at once to make sure my work is *getting* done, it is also a burden to have to explain to each of several different people *how* my work should be done. With one particular secretary, I could both order priorities effectively, as well as be sure that I had a person who understood the particular forms and requirements of my assignments.

(3) The attorneys seem to forget that I fight deadlines too!

(4) There is a problem of professional jealousy on the part of some of the secretaries. These persons are either "too busy" to do my work, or relegate it to the bottom of their work load, or do it poorly because they do not think it "matters" as much as the work of the attorneys. This could be solved if the legal assistants had a specific typist assigned to them.

(5) There is a *definite* need for a *quiet* area within which to work.

(6) There is a tendency for management to give paralegal secretarial needs low priority. Their implied attitude is that since we are women we really *could* do our own typing if we had to.

(7) I find resentment from the secretaries in the office if I ever ask them to do anything. I think it stems from the fact that the attorneys themselves have not shown that they think of my position as anything much higher than the secretaries. The secretaries also know I get substantially the same salary and benefits that they do, and they see that my working conditions are not much better, so they themselves see no reason for treating me any differently.

(8) I do not find the same problems in terms of delegation of clerical work and respect from staff or attorneys that I hear other assistants complaint of. I believe this is because our office is organized on a team basis. I work for two specific attorneys, and share their two secretaries. This means that we all work together on the same cases, and all feel like integral parts of the process. From what I have seen, more offices could benefit from organizing themselves this way.

IV. Salary and Benefits

Not surprisingly, the single comment seen on virtually every questionnaire was a complaint regarding salary levels. The general consensus was that legal assistants are put in positions of "professional" responsibility, but are not receiving "professional" level salaries. The same dichotomy was felt to extend to fringe benefits and, to some extent, working conditions. Some of the comments:

(1) There is a tendency on the part of attoreys to consider us "professionals" when it comes to working overtime without compensation, and "non-professionals" when it comes to everything else.

(2) I had to take a decrease in pay when I moved "up" from being a secretary to a legal assistant.

(3) We are told we do not get overtime because we are treated just like attorneys, yet salaries and bonuses are not really above what a good secretary

receives. As an example, last year I put in 11 days *unpaid* overtime, but I was still *docked* three days pay for exceeding my alloted vacation. This is not consistent or fair.

(4) Although we are given a great deal of responsibility, and are expected to be as devoted as an associate, our pay and treatment are nowhere near comparable.

(5) Experienced legal assistants with proven value to their firms should be able to expect a salary equal to, or greater than, the beginning associates.

(6) Legal assistants in this City are by and large both well educated and quite intelligent. These are the attributes of a professional, and are compensated as such in other fields. It is discouraging that the legal community, at least in San Francisco, has not really recognized this. Locally, the problem is due at least in part to the overabundance of persons qualified for the position, which does drive down the "marketplace" value. By the same token, however, there is a definite shortage of *experienced* legal assistants. Over time, the firms who are not willing to pay for the benefit of this experience will be losing their most talented people to other legal concerns, geographic locales, and/or other professions, where the promise of monetary advancement is greater. The salary outlook as it stands now in San Francisco simply does not encourage the more capable people to think of their present positions as careers with long term promise, despite the inherent rewards of the work.

(7) The split in the office between those attorneys who are for assistants and those who are against them has made progress, including salary increases, difficult.

(8) Attorneys should be willing to pay legal assistants enough to prevent the rofession from becoming a "stopping off" job for the liberal arts graduate. The pay should be high enough to attract people who are qualified to do research.

(9) Advancement is a joke. Paralegal work is considered "women's work" in this firm, and advancement means only slightly more money for the same quality/quantity of work. If we do not want this to continue we must, for one thing, be able to attract more men in to the profession.

(10) Chauvinism exists even within our profession. We have a male legal assistant in our firm who is making more money than I am.

(11) The legal assistant profession cannot be defined very easily because very few assistants do exactly the same things, even within a given area. The status of assistants also varies from firm to firm, some giving the assistant a very professional status (like that of a new attorney) and others giving them no status at all. Both the definition and the status will change when attorneys become more aware of the areas of responsibility that an educated assistant can handle.

(12) As far as compensation, San Francisco is under paid compared to Los Angeles, New York, Philadelphia, Chicago, etc. Even within the City the salary of a competent legal assistant varies greatly from firm to firm, and in many cases is less than that of the legal secretary.

(13) One of the weaknesses of the field is the reluctance of the lawyer to acknowledge to the right hand what the left hand do n. This, combined with male chauvinism results in the attitude that anyone who has not gone through law school is not sufficiently educated to deserve a salary much above the secretaries. Not enough advancement potential is offered to those who stick with the job. Fringe benefits are frugal also.

(14) Some attorneys, especially suburban ones, but also some old-time city men as well, take the attitude that "Women (God bless them . . .) want to use their pretty little brains because they've gone and gotten an education. Well, maybe we can use them—let them think a little and take away some onerous work off our hands, and they'll be satisfied. But frankly, a good secretary is probably worth more . . . she makes good coffee and brings cakes from home, and phones me if I sleep too long, and pages me on the golf course, stays until all hours for a rush job when I stayed at the club too long—you can't beat that!" Recommendation: Keep plugging away with NOW.

E. SALARIES

The following pages detail the results of salary surveys taken this year. Profiles of individual salaries contrasted with billing rates and other factors, ratios of experience to salary levels, and averages for experience categories have been provided. In addition, an overview of the salaries reported in response to the January-March questionnaire has been included for comparison.

SAN FRANCISCO LEGAL ASSISTANTS SALARY PROFILES, SEPTEMBER 1973

Practice area	Yearly gross	Experience as Legal Assistant (months) [1]	Billing rate	Average client hours per month	Overtime compensation	Firm size and type [2]
Environment	$12,700	12	(3)	(3)	Time off	A-G
Litigation	12,350	36	$20	(4)		D-P
Do	12,300	32	20	(4)	Time and ½	D-P
Business	12,000	48	20	+100		D-P
Litigation	11,120	24	20	(4)	Time and ½	D-P
Do	10,800	42	25	120	do	D-P
Do	10,800	12	15	110		C-P
Do	10,625	42	22	130		E-P
Probate	10,560	12	(4)	(4)	Time and ½	E-P
Litigation	10,437	6	20	(4)		C-P
Do	10,400	7	25	(4)	Time and ½	A-P
Probate	10,187	42	15	(4)	do	C-P
Litigation	10,000	32	20	130		C-P
Do	10,000	5	(4)	125	Time and ½	E-P
Do	10,000	24	(4)	120		D-P
Probate	9,875	12	15	120		E-P
Litigation	9,840	7	15	(4)	Time and ½	B-C
Do	9,687	14	13	(4)	do	C-P
Do	9,685	18	15	(4)	do	C-P
Probate	9,600	6	20	(4)		B-P
Do	9,459	12	20	130	Time and ½	E-P
Litigation	9,310	15	20	(4)	do	D-P
Do	9,310	6	20	(4)	do	D-P
Do	9,000	18	15	(4)		D-P
Corporate	9,000	4	20	+100	Time and ½	C-P
Litigation	9,000	9	15	130	do	E-P
Contracts	9,000	6	20	68	do	E-P
Corporate	8,600	12	(4)	(4)	do	E-P
Litigation	8,400	1	15	150		C-P
Do	8,040	5	20	(4)	Time and ½	D-P
Probate	8,000	6	15	120		D-P
Litigation	8,000	12	20	150		C-P
Do	8,000	7	15	150		C-P
Do	8,000	1	15	130	Time and ½	E-P
Do	7,500	1	(4)	(4)	do	E-P
Do	6,096		(4)	140	Time off	E-P

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[1] Figures include prior experience as a legal assistant.

[2] Firm size code: A, 5 or less attorneys; B, 6 to 14 attorneys; C, 15 to 24 attorneys; D, 25 to 49 attorneys; E, 50 or more attorneys. Firm type code: P, private firm; G, government agency; C, corporation.

[3] Not available.

[4] Unknown.

Note: The above yearly gross figures include Christmas or other annual bonuses where those figures were provided. To most accurately compare your own salary with these figures, it is necessary that you add the bonus increment to your computations.

September 1973 responses—Ratio of experience as a legal assistant to salary

Experience (months):	*Salary*
1	$8,400
1	8,000
1	7,500
2	6,096
4	9,000
5	10,000
5	8,040
6	10,437
6	9,600
6	9,310
6	9,000
6	8,000
7	10,400
7	9,840
7	8,000
9	9,000
12	12,700
12	10,800
12	10,560

September 1973 responses—Ratio of experience as a legal assistant to salary—Continued

Experience (months):	*Salary*
12	$9,875
12	9,459
12	8,600
12	8,000
14	9,687
15	9,310
18	9,685
24	11,120
24	10,000
32	12,300
32	10,000
36	12,350
42	10,800
42	10,625
42	10,187
48	12,000

[NOTE: To obtain the practice area, billing rate, etc., of the persons listed above, match the salary and experience figures to the chart on the preceding page.]

OVERVIEW OF LEGAL ASSISTANT SALARIES—FALL 1973

Experience (months)	Average		High		Low		Number responding
	Year	Month	Year	Month	Year	Month	
48	$12,000	$1,000					1
42	10,537	878	$10,800	$900	10,187	848	3
36	12,350	1,029					1
32	11,150	929	12,300	1,025	10,000	833	2
24	11,024	918	11,120	926	10,000	833	2
14 to 18	9,560	796	9,687	807	9,310	775	3
12	10,000	833	12,700	1,058	8,000	666	7
9	9,000	750					1
7	9,413	784	10,400	866	8,000	665	3
6	9,269	772	10,437	866	8,000	666	5
5	9,020	751	10,000	833	8,040	670	2
4	9,000	750					1
2	6,096	508					1
1	7,966	663	8,400	700	500	625	[illegible]
Total							34

OVERVIEW OF LEGAL ASSISTANT SALARIES IN SAN FRANCISCO—SPRING 1973

Experience	Average	High	Low	Number responding
5 years or more	$920	$1,065	$775	2
4 years	900			1
36 to 47 months	780	825	740	3
30 to 35 months	795	815	775	2
24 to 29 months	833	900	775	3
18 to 23 months	800	825	725	6
12 to 17 months	752	850	650	15
9 to 11 months	692	850	600	18
6 to 8 months	706	850	675	9
3 to 5 months	727	835	650	10
1 to 2 months	650	650	600	4
Total				72

APPENDICES

The following pages contain information with respect to additional job duties that can be performed by legal assistants in the various practice areas. Many of you will be already familiar with this material as it was originally produced in connection with the S.F. Bar Association panel on legal assisting which was held in May of this year. The material has been duplicated here for the benefit of those of you who have not previously received copies.

USE OF LEGAL ASSISTANTS IN A BUSINESS LAW PRACTICE

(By Kris Hoffman of Miller, Groezinger, Petit & Evers, 650 California Street,
28th Floor, San Francisco, Calif. 94108)

[A panel discussion at the Bar Association of San Francisco Lounge,
May 17, 1973]

NOTES

1. "Draft" means the legal assistant would normally write the first and interim drafts of the document; "prepare" means the legal assistant would complete preprinted or MT/MS forms; "assist" mean the attorney would be the principal drafter of the document and the legal assistant would only draft selected paragraphs or sections. In all cases, the final draft of the document or work product must be reviewed and approved by the responsible attorney.

2. Legal research is conducted on a restricted basis. Legal assistants will research *only well-defined issues* and will provide the responsible attorney with both a memorandum of law and xerox copies of the critical statutes, cases and treatises.

A. ORGANIZING A CORPORATION

1. Determine availability of and reserve corporate name.
2. Draft Pre-Incorporation (or Post-Incorporation) Subscription Agreements.
3. Draft Articles of Incorporation and By-Laws.
4. Record Articles of Incorporation.
5. Order corporate supplies.
6. Draft Waiver of Notice and Minutes of the First Meeting of Board of Directors and Shareholders.
7. Prepare Minute Book.
8. Prepare Notices of Issuance of Securities and draft Applications for Qualification of Securities (including exhibits and amendments).
9. Prepare Stock Certificates.
10. Draft Letters of Non-Distributive Intent.
11. Prepare Stock Transfer Records.
12. Draft Buy-Sell (or Buy-Out) Agreements between stockholders and corporation.
13. Prepare and file Subchapter "S" Tax Election documents with the I.R.S.
14. Prepare, file and publish Fictitious Business Name Statements.
15. Provide client with appropriate forms for (or arrange for) issuance of I.R.S. Employer Identification No., Human Resources Department No., Sales Tax No. and similar special purpose licenses and permits.

B. ORGANIZING AND ASSISTING PARTNERSHIPS

1. Draft Pre-Organization Agreement.
2. Draft General or Limited Partnership Agreements.
3. Draft and file Statements of Partnership and Certificates of Limited Partnership.
4. Prepare, file and publish Fictitious Business Name Statements.
5. Draft minutes of partnership meetings.
6. Draft Non-Competition Agreements for Selling Partners, Assignments of Partnership Interests, Approval of Substituted Partner, and appropriate amendments to the Partnership Agreements and Certificates of Limited Partnership.
7. Draft Agreements for Dissolution of Partnership.
8. Draft and file Termination of Fictitious Business Name Statements.
9. Draft and publish Notice of Termination of Partnership (or Continuation of Successor Business).

C. ASSIST EXISTING BUSINESSES

1. Draft notices, agendas, resolutions and minutes of meetings for Board of Directors, shareholders, associations and partnerships.
2. Draft resolutions for adoption by unanimous written consent.
3. Draft Certificates of Amendment to Articles of Incorporation, Restated Articles of Incorporation, and amendments to By-Laws.

4. Draft Promissory Notes, Bills of Sale, Assignment and Assumption Agreements, Powers of Attorney, Profit Sharing Plans, Pension Plans and Stock Option Plans.
5. Draft Employment Contracts, Covenants Not To Compete, and Deferred Compensation Agreements.
6. Draft Research and Development Agreements, Patent and Trade Secret Licensing Agreements, and Non-Disclosure Agreements.
7. Draft Equipment and Real Property Leases.
8. Draft Security Agreements, Pledge Agreements, Loan Agreements, Guaranties and Indemnification Agreements.
9. Prepare and file UCC Financing Statements, UCC Change Notices, UCC Information Requests and Notices of Bulk Sale.
10. Prepare Proofs of Claim in Bankruptcy.
11. Draft applications for Licenses or Certificates of Authority to do business in a foreign state (and thereafter file annual reports).

D. ISSUANCE AND TRANSFER OF SECURITIES

1. Research Blue Sky laws to determine qualification requirements and exemptions; draft Blue Sky memoranda and letters confirming exemptions from registration.
2. Draft Subscription Agreements.
3. Draft Applications for Qualification of Securities and prepare Notices of Issuance of Securities.
4. Draft Letters of Non-Distributive Intent.
5. Draft Promotional Stock Agreements.
6. Prepare Requests for Consent To Transfer, Transferee Statements and Assignments Separate From Certificate.
7. Prepare Stock Certificates, Debentures, Warrants, Stock Options, and other securities.
8. Maintain Stock Transfer Records.
9. Draft Stock Option Plans, Employee Stock Purchase Plans, and Phantom Stock Plans.
10. In connection with public offerings, assist in drafting Letters of Intent, Underwriting Agreements, Dealers' Agreements, questionnaires, transmittal letters and filing state registration forms.
11. In connection with public corporations, assist in drafting portions of Reports on Forms 10–K, 10–Q and 8–K, Registration Statements, Proxy Statements, Schedule 13D, and shareholder Forms 3 and 4.
12. Draft documentation in connection with old Rule 133 and Rule 144 transactions.

E. ASSIST WITH ACQUISITIONS AND MERGERS

1. Draft Letters of Intent.
2. Draft notices, agendas, resolutions and minutes of meetings of the Board of Directors and Shareholders.
3. Draft Agreements and Plans of Reorganization, Merger Agreements and Purchase and Sale Agreements (including certain related exhibits).
4. Draft Escrow Agreements, Employment Contracts, Covenants Not To Compete and Letters of Non-Distributive Intent.
5. Draft Closing Memoranda and obtain various closing documentation (including Good Standing Certificates and telegrams, Franchise Tax Board Clearances, UCC Filing Clearances, and Unemployment Tax Clearances).
6. Draft, file and publish Notices of Bulk Sale.
7. Draft other closing documentation such as Bills of Sale, Promissory Notes, Debentures, Assignments of Assets, Assumptions of Liabilities, Receipts, Certificates of Officers, Certificates of Incumbency and Signatures, Estoppel Certificates, Shareholder Indemnity Agreements and Escrow Receipts.
8. Review, summarize and index various exhibits, such as contracts and leases.
9. Assist at acquisition closings.
10. Index and prepare a bound book of acquisition documents.

F. DISSOLUTION OF CORPORATION

1. Draft notices, agendas, resolutions and minutes of meetings of the Board of Directors and Shareholders.

2. Draft Plans of Complete Liquidation (and arrange for timely filing with I.R.S.).
3. Draft and file Certificates of Election to Wind Up and Dissolve.
4. Draft Notices to Creditors.
5. Obtain Franchise Tax Board Clearances, including Assumptions of Tax Liability and Certificates of Net Worth.
6. Draft Withdrawals of Qualification from foreign states.
7. Compile and prepare Creditor and Shareholder Asset Distribution Schedules.
8. Cancel Stock Certificates.
9. Draft Shareholder Liquidating Trusts under I.R.C. § 337.
10. Draft and file Certificates of Winding Up and Dissolution.

USE OF LEGAL ASSISTANTS IN REAL ESTATE PRACTICE

1. Gathering or verifying essential data, including correct names, legal form of title, and legal descriptions.
2. Review, summarize and index recorded title documents.
3. Assemble tax receipts, request and review preliminary and final title insurance certificates or policies.
4. Allocation of property taxes, rental payments, insurance premiums, commissions, down-payments, and interest.
5. Prepare and record Deeds, Promissory Notes, Bonds, Mortgages, Deeds of Trust, UCC Financing Statements, other security instruments, collateral instruments, Notices of Default, Assignments of Deed of Trust, Reconveyances, and Requests for Full Reconveyance.
6. Draft Land Contracts, Options, Leases, Memoranda of Leases, Lease Assignments, Easements, Licenses and Escrow Instructions.
7. Assist in the preparation of applications for zoning, building occupancy and similar governmental permits.
8. Draft Partnership and Joint Venture Agreements.
9. Assist in the organization of Real Estate Syndicates and Real Estate Investment Trusts, including drafting documents and obtaining necessary real estate or securities permits.
10. Assist at real estate closings.
11. Index and prepare a bound book of real estate documents.
12. Draft Building Construction Contracts, Subcontracts, General and Special Conditions, Owner-Architect Agreements; Architect-Engineer Consultant Agreements.
13. Prepare (preprinted) A.I.A. Agreements and Forms.
14. Draft Purchase Agreements, Mortgage Bond Indentures, Construction Trust Deeds, Security Agreements and Working Capital Agreements.
15. Prepare and file Preliminary Notice for Subcontractors, Notice of Non-Responsibility, Stop Notice, Claim of Mechanics Lien, Notice of Cessation of Work and Notice of Completion.
16. Record Payment Bonds and file Construction Contracts.

USE OF LEGAL ASSISTANTS IN GOVERNMENT CONTRACTS

A. Maintain calendar of appeal and brief due dates and Court and Appeals Board appearance dates.

B. Prepare Claims.
   1. Gather, review, summarize and index client files.
   2. Assist in drafting contract claim.
   3. Conduct preliminary research of selected legal issues.

C. Prepare for Appeal Hearing.
   1. Draft and answer Interrogatories and requests for production of documents.
   2. Summarize and index Answers to discovery.
   3. Assist in drafting Appeal.
   4. Prepare questions for witnesses and summarize prior testimony.
   5. Maintain documents during Hearing.

D. Prepare Post-Hearing Briefs.
   1. Summarize and index Transcripts.
   2. Assist with analysis of Government's brief.
   3. Conduct preliminary research of particular issues.
   4. Assist in drafting the Post-Hearing Brief.

"LEGAL ASSISTANTS IN PROBATE PRACTICE"

(A Ten-Minute Introduction)

(By Alan D. Bonapart, Bancroft, Avery & McAlister, 240 Stockton Street,
San Francisco, Calif. 94108)

LEGAL ASSISTANTS

[A panel discussion at the Bar Association of San Francisco Lounge May 17, 1973]

1. Consider the experience of English solicitors

Anyone interested in the emerging career referred to as the legal assistant, should become acquainted with the history of managing clerks (now called Legal Executives) in English law offices. Chapter 12 of *Lawyers and Their Work* (an analysis of the legal profession in the United States and England), written by Quintin Johnston and Dan Hopson, Jr., published by Bobbs-Merrill, 1967, describes the very important role of the managing clerks, especially in solicitors' offices, in England.

"One conservative estimate is that there is about a one-to-one ratio between principals (solicitors who are partners or sole proprietors) and unadmitted managing clerks in the private practice of law. . . ." In addition, "for every managing clerk in private practice, there is an average of about one junior clerk. . . ."—at page 401.

"The larger firms are departmentalized, and managing clerks are assigned exclusively to one department. In one big firm we [the authors] found that its probate and conveyancing departments were operated entirely by unadmitted personnel, the two departments together employing 16 clerks, plus secretarial help, and each was headed by a managing clerk."—at page 410.

"The unauthorized practice implications of solicitors' unadmitted clerks performing lawyers' tasks has never caused much concern in England. The generally accepted theory apparently is that because clerks are employees or agents of a solicitor responsible for their acts, the acts are those of a qualified person, the solicitor."—at pages 411 and 412.

2. To learn from the ideas of others one needs to know about the setting in which the ideas developed

There are not very many unvarying formulae for the effective organization and administration of one's law practice. We can learn from the experience of others, but the utilization of that learning depends to a very large extent on one's existing organization and personnel. For that reason, the successes and problems any of the speakers have experienced with legal assistants can only be useful to others if one knows at least a little of the context in which those experiences occurred. It probably is not necessary to advise lawyers to be skeptical.

3. A very selective bibliography.

A summary of a very lively discussion and series of debates appears in *New Careers in Law: II, Conference* Report June 1971, published by the American Bar Association Special Committee on Legal Assistants (156 pages, including a 12-page bibliography). It is available from the Special Committee at:

1155 East 60th Street, Chicago, Ill. 60637.

"Estate work—A Happy Hunting Ground for the Paralegal" in 19 *The Practical Lawyer* (March 1973) at page 73, written by Chester S. Grove of the Lockport New York Bar, contains many good examples of what an experienced probate assistant can do. (Lockport, New York, by the way, has a population of approximately 25,000. The author's law firm includes three lawyers.)

4. What do they (Legal Assistants in Probate and Estate Planning practice) do?

The following are generalized descriptions of the responsibilities and duties of two of the legal assistant positions in one law firm:

LEGAL ASSISTANT—PROBATE

Special Responsibiilties and Duties:

Responsibilities include performance of assigned work related to the following areas of the Firm's practice: administration of decedents' estates; creation and administration of inter vivos trusts, administration of testamentary trusts, guardianships, conservatorships, and individual agency accounts; the determination of gift and death tax liabilities; estate planning.

Duties include, but are not limited to, the following:

(a) Gather and investigate facts on assigned matters.

(b) Determine and communicate deadline dates, sequence of work, and allocation of duties among those within and outside the Firm.

(c) Initiate and control work flow and client information, including, but not limited to, the use of filing and billing memoranda and calendar system requests.

(d) Draft and dictate opinion memoranda and letters for attorney's signature; also requests for opinion memoranda and materials for lawyers, accountants, legal assistants and research personnal.

(e) Prepare pleadings, judgments, orders and other court documents.

(f) Prepare, check, review and transmit tax estimates, tax returns and reports, valuation schedules, appraisals, inventories, fiduciary accountings and reports.

(g) Prepare applications to collect statutory and contractual payments, including, but not limited to, death benefits, survivor benefits, life, property and other insurance policy proceeds.

(h) Establish and maintain savings, commercial investment and other accounts with banks, savings and loan associations, investment counselors, stock brokers, mutual funds and others.

(i) Analyze time and cost information and prepare proposed billing to clients.

LEGAL ASSISTANT—ESTATE PLANNING

Special Responsibilities and Duties:

Responsibilities include performance of assigned work primarily in connection with the Firm's estate planning practice.

Duties include, but are not limited to, the following:

(a) Gather and investigate facts, for example, review clients' papers and records, recording significant data, summarizing existing documents, and meeting with clients to ask questions eliciting factual information.

(b) Analyze, review and summarize documents providing for contractual payments, including, but not limited to, life and accidental death insurance policies, death benefit agreements, and other insurance policies.

(c) Determine and communicate deadline dates and sequence of work.

(d) Initiate and control workflow and client information, including, but not limited to, the use of filing and billing memoranda and calendar system requests.

(e) Draft, check, proofread, produce and oversee the production of forms, form pages, guide pages, drafting guides, procedural guides, checklists and other materials used in providing estate planning services.

(f) Draft estate planning documents, including, but not limited to, wills, codicils to wills, trust instruments, amendments to trust instruments, nominations of guardians and conservators, powers of attorney, and designations of beneficiaries of life and other insurance policies.

(g) Draft and dictate opinion memoranda and letters for attorney's signature, including, but not limited to, letters transmitting drafts of documents, and copies of signed documents, letters requesting information, letters summarizing the contents of documents, letters explaining recommended changes in plans and documents; also requests for opinion memoranda and drafting advice and materials from lawyers, accountants, legal assistants and research personnel.

(i) Assist clients to properly sign documents.

LOS ANGELES PARALEGAL ASSOCIATION,
July 29, 1974.

Re hearing on legal assistants.

Senator JOHN V. TUNNEY,
Chairman, Senate Subcommittee on Representation of Citizen Interests, Washington, D.C.

DEAR SENATOR TUNNEY: Thank you for the opportunity to speak regarding the effective use of legal assistants.

The Los Angeles Paralegal Association (LAPA) represents paralegals working within the private sector of the Los Angeles legal community. Our membership includes legal assistants trained in such speciality areas as litigation, probate, corporations, entertainment, domestic relations and real estate. Through our organizational activities, we have established communications with paralegals in the public law sector, such as California Rural Legal Assistance and the Western Center on Law and Poverty. The LAPA also maintains close contact with the San Francisco Association of Legal Assistants (SFALA), an organization whose membership and professional goals are similar to our own. Recently, in Chicago, the National Federation of Paralegal Associations (NFPA) was formed to represent paralegals in both the private and public law sectors across the country. The Federation's charter members are: the Chicago Assoc. of Paralegal Assistants, Minnesota Assoc. of Legal Assistants, Philadelphia Assoc. of Paralegal Professionals, D.C. Metropolitan Area Paralegal Assoc., Rocky Mountain Legal Assistant Assoc., San Francisco Assoc. of Legal Assistants, Atlanta Assoc. of Legal Assistants, and the Los Angeles Paralegal Assoc.

This organizational growth, on the local, state and national level certainly indicates that the use of legal paraprofessionals is widespread. The problem remains, however, as to the definition of the following aspects of the legal assistant:

(1) Educational requirements;
(2) Range of job duties and responsibilities;
(3) Place within the legal community;
(4) Certification/licensing standards.

Definition of these four areas will do much to provide new careers for college educated people interested in the law; lend assistance to an over-burdened legal community; and to open up legal services to millions of people who previously could not afford them. There are, however, many opinions as to the form any such definition should take. In my communications with other members of the NFPA, I have found that local legal communities have many dissimilar problems regarding the use of legal assistants. I am not convinced, therefore, that definitive standards can be set by a national agency. It is imperative, however, that representative viewpoints be heard and considered before any such standards are set.

You may be aware that the Certified Attorney Assistant Act (AB 1814) is now before the California Senate and set for hearing on August 6, 1974. Many months of negotiation have gone into this bill but basic problems still exist. I have attached for your consideration, the material recently sent by the LAPA and the SFALA to all members of the Senate Judiciary Committee; the author of AB 1814, Willie Brown of San Francisco; and the members of the California State Bar Committee on the Economics of Law Practice. This material sets forth the important issue of paralegal participation in any attempt to set standards regulating the profession.

Legal assistants, although not new in concept, are new on the job market. Although a well trained paralegal is capable of producing a sophisticated work product, we have been met with some suspicion by members of various legal communities. Many of us recognize that the only way to establish our profession is to educate the legal community as well as the public. Until lawyers make effective use of legal assistance, the goal of lower legal cost to the public will not be achieved.

The LAPA looks forward to reviewing the progress of your Committee's investigation. I have read the reports submitted to you by the SFALA, the D.C. Metropolitan Area Paralegal Assoc., and the Chicago Assoc. of Paralegal Assistants. The areas of inquiry set forth in these reports must be investigated before any professional standards can be developed. I am hopeful that the other reports and testimony you receive will be of similar high quality. I also hope the enclosed discussion of AB 1814 will be of use to you in considering future national certification of legal assistants. I will be happy to report to you the results of the August hearing on the Bill.

Thank you again for the invitation to submit this report.

Very truly yours,

VICTORIA WATENMAKER,
President, Los Angeles Paralegal Association.

THE LOS ANGELES PARALEGAL ASSOCIATION,
Beverly Hills, Calif.
THE SAN FRANCISCO ASSOCIATION OF LEGAL ASSISTANTS,
San Francisco, Calif., July 24, 1974.

Re AB 1814.

Members of the California Senate Judiciary Committee.

DEAR COMMITTEE MEMBER: We, the San Francisco Association of Legal Assistants and the Los Angeles Paralegal Association, collectively represent over 200 persons engaged in paralegal work in California. Together we urge you to consider the enclosed modifications to Assembly Bill 1914, the Certified Attorney Assistant Act.

Throughout the preparation of AB 1814, our membership, in the private sector, has been concerned that Paralegals be allowed a meaningful degree of participation in establishing the Bill's guidelines. Similarly, representatives of Paralegals in the public sector, where the use of paraprofessionals is essential to th edelivery of low cost legal services to the public, have sought to ensure that the interests of their constituents be protected.

HISTORY OF NEGOTIATIONS

Several months of intense meetings and negotiations have gone into AB 1814. The focus of the ensuing controversy has been Section 6209 of the Bill, which defines the composition of the Certified Attorney Assistant Board, the rule-making body. The original Bill contemplated that this body would be composed solely of members of the State Bar, a proposition which we found unacceptable. Compromises have broadened the scope of the Board membership, but agreement still has not been reached.

Midway through negotiations, the public sector representatives proposed that all appointments be designated with specificity so that each primary interest group would have some representation on the Board. It was suggested, for example, that not only four attorneys be appointed to the Board, but that a certain number of them be designated as from the public sector of practice. Similar designations were suggested for the Paralegal appointees. We supported this suggestion, as we believed their concern to be valid, and their suggestion assured that our constituents would have adequate representation. This suggestion, however, met with resistance from the State Bar and was not implemented.

Compromises have now been made by both sides—most recently in a meeting held last May. At that time it was concluded that the participants had gone as far as possible in obtaining a concensus and that the remaining issues would have to be mediated by the Judiciary Committee.

THE PROBLEM

The Bill, as amended in the Senate on June 24, 1974, is an attempt to conform to the desires expressed at the May meeting. While we appreciate the good intentions and cooperation of the Bill's author, we strongly believe that the amendments made to Section 6209 concerning the composition of the governing body have moved us farther away from, not closer to, the goals expressed at that meeting: representation of different sectors of practice and adequate representation of Paralegals themselves.

As it is now written, the Bill permits only two possible Paralegal appointments to a nine person Board. It is also stated that those two positions may go to either paraprofessionals or to Paralegal educators. If the Speaker, who is the designated appointer of these positions, seeks to be as representative as possible, the most likely outcome is that one of each will be appointed, having only one Paralegal on the nine person Board. Because of the diversity of the Legal Assistant's roles, we do not believe a single voice can adequately represent our varied interests and concerns. We cannot, therefore, accept this Section as currently worded.

PROPOSAL

Realizing that compromise will be necessary if this Bill is to pass, we have, by the following suggested amendments, tried to reach a middle ground. We have not continued to promote the concept that positions be designated with specifity as proposed by the public sector interests, although we are not opposed to that concept.

We offer two alternative modifications to Section 6209. The first is that the Board be increased to eleven members, allowing the appointments of three Paralegals and one educator. We believe there would be many advantages to this expansion, as outlined on page 3 of the attachment to this letter. We urge serious consideration of this proposal.

If, however, it is not possible to expand the Board, we offer a second proposal which would meet the minimum requirements of equitable representation. This modification permits the appointment of three Paralegals to the existing nine person Board, and is detailed on page 5 of the attachment.

At the very least, this minimum representation is imperative. Paralegals have evolved in many substantially different directions, each legitimately "Paralegal" in function, but each having very different concerns and interests. We cannot overemphasize how important it is that at least the suggested minimum representation be implemented, so that if these interest groups cannot be guaranteed representation, at least the likelihood that they will be excluded shall be diminished. In addition, since we are the persons most familiar with the capabilities of, and the functions performed by, Paralegals, we believe that the Board would be greatly benefited by the addition of our experience and education.

We would like to stress that ample precedent exists for the appointment of members of a profession to the Boards which govern them. A large number of these Boards not only include members of their professions, but those members constitute a majority of positions held. (Copies of illustrative sections of the Business and Professional Code are enclosed for your review.) We are not asking you to change this Bill to that extreme. We value the contributions and guidance that the State Bar and Judicial Council are sure to provide. We simply ask for appointments sufficient to assure our fair representation. Because we are the persons performing the work to be governed and because we are the persons whom this Bill will most directly affect, we believe that implementation of one of our proposed changes is essential.

We would be happy to speak before you when this matter is taken up on August 6, 1974 if you wish amplification of our views.

Thank you for your attention.

Sincerely,

CARLA BERG,
President, The San Francisco Association of Legal Assistants.
VICTORIA WATENMAKER,
President, The Los Angeles Paralegal Association.

AB 1814

Applicants Who Qualify Under This Article.

6208. Nothing in this article shall be construed as affecting or impairing the disciplinary powers and authority of the Supreme Court or the State Bar in respect to conduct of members of the State Bar nor modifying the statutes and rules governing such conduct, except as expressly provided in this article.

6209. The certified attorney assistant board shall be composed of nine persons three members to be appointed by the Judicial Council of which only two may may be members of the State Bar *and the other one shall be a public number*; three members to be appointed by the Judicial Council of which only two may be members of the State Bar *and the other one shall be a public member*; three members to be appointed by the Legislature, two to be appointed by the Speaker of the Assembly, *both of whom shall be persons engaged in paralegal work or be certified attorney assistants or persons engaged in the training of paralegals or certified attorney assistants*, and one *public member* to be appointed by the Senate Rules Committee, none of whom may be members of the State Bar and only two of whom may be persons engaged in paralegal work or be certified attorney assistant.

Members of the certified attorney assistant board shall be appointed for a term of three years. However, with respect to the three initial appointments [make] *made* by each appointing body, one appointment shall be designated by the appointing body to be for a term of two years, one for a term of three years, and one for a term of four years, except that the appointee of the Senate Rules Committee shall be designated to serve for a term of four years. No person may be appointed to a successive term.

6210. The certified attorney assistant board shall, within 90 days of its first meeting, appoint an advisory committee or committees composed of representatives from the various diverse organizations utilizing paralegals. Representatives from urban and rural organizations shall be included, and special consideration.

FIRST SUGGESTED PROPOSAL [1]

11 Member Board

Composition:

4 Attorneys.
3 Paralegals or Certified Attorney Assistants.
3 Public Members.
1 Paralegal Educator.

Appointments:

State Bar—2 Attorneys, 1 Paralegal or Certified Attorney Assistant.
Judicial Council—2 Attorneys, 1 Public Member.
Legislature—2 Paralegals or Certified Attorney Assistants;
  1 Public Member apointed by the Speaker of the Assembly;
  1 Public Member; and 1 Paralegal or Certified Attorney Assistant Educator appointed by the Senate Rules Committee.

Comments:

We find no compelling reason why the Board must remain at nine members. Given the multiplicity of sectors who will be affected by the Board action, and the tremendous amount of work to be performed, an expanded board is desirable.

The expanded Board will also decrease the competition for a Board position between Paralegals and Paralegal Educators—both of whom will provide valuable input to the Board.

FIRST PROPOSAL, AB 1814

6209. The certified attorney assistant board shall be composed of *eleven* [nine] persons: three members to be appointed by the Board of Governors of which only two may be members of the State Bar and the other one shall be *a person engaged in paralegal work or certified attorney assistant* [a public number]; three members to be appointed by the Judicial Council of which only two may be members of the State Bar and the other one shall be a public member; *five* [three] members to be appointed by the Legislature; *three* [two] to be appointed by the Speaker of the Assembly, *two* [both] of whom shall be persons engaged in paralegal work or be certified attorney assistants *and one of whom will be a public member* [or persons engaged in the training of paralegals or certified attorney assistants], and *two to be* [one public member to be] appointed by the Senate Rules Committee, none of whom may be members of the State Bar, *one of whom shall be a public member and one who shall be a person engaged in the training of paralegals* [and only two of whom may be persons engaged in paralegal work or be certified attorney assistants].

SECOND SUGGESTED PROPOSAL [1]

9 Member Board

Composition:

4 Attorneys.
3 Paralegals or Certified Attorney Assistants.
2 Public Members.

Appointments:

State Bar—2 Attorneys, 1 Paralegal or Certified Attorney Assistant.
Judicial Council—2 Attorneys
Legislature—1 Public Member and 1 Paralegal or Certified Attorney Assistant to be appointed by the Speaker of the Assembly; 1 Public Member and 1 Paralegal or Certified Attorney Assistant to be appointed by the Senate Rules Committee.

Comments:

This format will provide adequate, if not optimal representation of interest groups. Obviously lacking, however, is the specified appointment of a Paralegal educator. Because most Paralegal educators are members of the State Bar, we believe this important appointment should be made by either the State Bar or the Judicial Council from their Attorney allotments.

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[1] Exact Wording Follows.

SECOND PROPOSAL, AB NO. 3814

9269. The certified attorney assistant board shall be composed of nine persons: three members to be appointed by the Board of Governors of which only two may be members of the State Bar and the other shall be *a person engaged in paralegal work or a certified attorney assistant;* [a public number;] two [three] members to be appointed by the Judicial Council, *both of which may be members of the State Bar* [of which only two may be members of the State Bar and the other one shall be a public member]; *four* [three] members to be appointed by the Legislature, two to be appointed by the Speaker of the Assembly, *one of whom shall be a person engaged in paralegal work or be a certified attorney assistant and the other shall be a public member.* [both of whom shall be persons engaged in paralegal work or be certified attorney assistants or persons engaged in the training of paralegal or certified attorney assistants,] and *two to be appointed by the Senate Rules Committee, one of whom shall be a person engaged in paralegal work or be a certified attorney assistant and the other shall be a public member.* [one public member to be appointed by the Senate Rules Committee, none of whom may be members of the State Bar and only two of whom may be persons engaged in paralegal work or be certified attorney assistants.]

BUSINESS AND PROFESSIONS CODE

Profession	Section No.	Professional positions held
Dentists	1621.2, .2	6 out of 10.
Nurses [1]	5000	6 out of 8.
Architects	5514	6 out of 9.
Attorneys	6011, 6013	15 out of 15.
Barbers	6500, 6501	4 out of 5.
Engineers	6710, 6711	8 out of 11.
Contractors	7000.5, 7001	8 out of 11.
Cosmetology	7301, 7302	5 out of 7.
Funeral directors	7601, 76[illegible]	5 out of 8.
Shorthand reporters [1]	8000	3 out of 5.
Social workers	9001, 9002	6 out of 9.
Cleaners	9530	5 out of 7.

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[1] Copies attached.

Ch. 6—NURSING

§ 2701. Board of nurse examiners in general

Text of section until July 1, 1977

The Board of Nurse Examiners of the State of California, consisting of seven members, is continued in existence in the Department of Consumer Affairs as the California Board of Nursing Education and Nurse Registration.

Within the meaning of this chapter, board, or the board, refers to the California Board of Nursing Education and Nurse Registration. Any reference in state law to the Board Examiners of the State of California shall be construed to refer to the California Board of Nursing Education and Nurse Registration.

This section shall remain in effect until July 1, 1977, and on such date is repealed.

(Added by Stats. 1939, c. 807, p. 2346, § 2. Amended by Stats. 1949, c. 392, p. 733, § 1; Stats. 1961, c. 1821, p. 3873, § 17; Stats. 1961, c. 1823, p. 3889, § 2; Stats. 1971, c. 716, p. 1397, § 38; Stats. 1971, c. 1593, p. 3217, § 28; Stats. 1972, c. 947, p. 1504, § 1; Stats. 1973, c. 122, p. —, § 3, eff. June 29, 1973.)

For text of section 2701 operative July 1, 1977, see section 2701, post.

§ 2702. Qualifications of members

Each member of the board shall be a citizen of the United States and a resident of the State of California. Five of the members shall be licensed professional nurses under the provisions of this chapter, each of whom shall have had at least seven years' experience in the active practice of his profession, and shall have been actually engaged in active practice within two years of his appointment. At least four members of the board shall have not had less than five years' experience as a teacher or administrator in an accredited school of nursing or in a public health nursing organization. Two of the members shall be public members who are not licentiates of the board or of any other board under this division or of any board referred to in Sections 1000 and 3600.

(d) The temporary registration fee for a geologist *or for a geophysicist* at not more than forty dollars ($40).

(e) The renewal fee for a geologist *or for a geophysicist* shall be fixed by the board at not more than eighty dollars ($80).

(f) The renewal fee for a specialty geologist *or for a specialty geophysicist* at not more than ten dollars ($10).

(g) The delinquency fee for a certificate is an amount equal to the renewal fee in effect on the date of its expiration.

(Added by Stats. 1968, c. 942, p. 1821, § 3. Amended by Stats. 1970, c. 896, p. 1635, § 15; Stats. 1972, c. 1396, p. 2914, § 52.)

CHAPTER 13. SHORTHAND REPORTERS

Article	Section
5. Shorthand Reporting Corporations [New]	8040

ARTICLE 1. ADMINISTRATION

§ 8000. Existence of certified shorthand reporters board; qualifications

There is in the Department of * * * *Consumer Affairs* a Certified Shorthand Reporters Board, which consists of five members appointed by the Governor two of whom shall be active members of the State Bar of California and three of whom shall be holders of certificates issued under this chapter who have been actively engaged as shorthand reporters within this state for at least five years immediately preceding their appointment.

(Amended by Stats. 1971, c. 716, p. 1[illegible]22, § 134.)

For provisions relating to effect of statutes conflicting with Stats. 1971, c. 716, p. 1442, and to legislative intent, see note under § 23.

§ 8001.5 Tenure of members; vacancies

Members of the board shall hold office until the appointment and qualification of their successors or until * * * *one year* shall have elapsed since the expiration of the term for which they were appointed, whichever first occurs. No person shall serve as a member of the board for more than * * * *two* consecutive terms *except as provided in section 131.* Vacancies occurring shall be filled by appointment for the unexpired term.

(Amended by Stats. 1973, c. 319, p. —, § 41.)

§ 8003. Officers; quorum; records

At each yearly meeting a chairman and vice chairman shall be elected from the membership of the board. Three members shall constitute a quorum for the transaction of business. The board shall keep a complete record of all its proceedings and * * * all certificates issued, renewed, or revoked, together with a detailed statement of receipts and disbursements.

(Amended by Stats. 1973, c. 319, p. —, § 42.)

§ 8003.5 Repealed. Stats. 1967, c. 1656, p. 4018, § 32

See, now, Government Code § 11120 et seq.

§ 8005. Executive functions of board; committees; secretary and employees

The Certified Shorthand Reporters Board is charged with the executive functions necessary for effectuating the purposes of this chapter. It may appoint such committees as it deems necessary or proper. The board may appoint, prescribe the duties, and fix the salary of an executive secretary, who may be employed on a part.

Asterisks * * * indicate deletions by amendment.

CHAPTER 17. SOCIAL WORKERS

Section
4. Clinical Social Workers [New] 9040
5. Licensed Clinical Social Workers Corporations [New] 9070

ARTICLE 1. ADMINISTRATION

Sec.
9001. Board of behavioral science examiners [New].
9001.5 Transfer of functions, responsibilities and duties; rules and regulations [New].
9002. Qualifications of members [New].
9002.1 Additional members; appointment; qualifications term [New].
9003. Tenure of members; vacancies [New].

Rules and regulations, see 16 Cal.Adm. Code 1800 et seq.

§ 9000. Construction of chapter

1. In general

An employer may properly require registration, certification, or licensure under certain title acts as a prerequisite to employment for the reason that such requirement would directly relate to the qualifications and competency of the employee but the citizenship requirement for employment would be invalid. 55 Ops.Atty.Gen. 80, 2-9-72.

§ 9001. Board of behavioral science examiners

Text of section operative until July 1, 1977

There is in the Department of * * * *Consumer Affairs* a Board of Behavioral Science Examiners which consists of nine members appointed by the Governor with the advice and consent of the Senate.

(Added by Stats. 1968, c. 1348, p. 2568, § 2. Amended by Stats. 1970, c. 760, p. 1437, § 1; Stats.1971, c. 716, p. 1426, § 148.)

§ 9002. Qualifications of members

Two members of the board shall be state-licensed clinical social workers, two shall be state-registered social workers, two shall be state-licensed marriage, family and child counselors, and three shall be public members. Each member, except the three public members, shall hold at least a master's degree from an accredited college or university and shall have at least * * * *two* years of experience in his profession.

(Added by Stats.1968, c. 1348, p. 2569, § 5. Amended by Stats.1969, c. 298, p. 665, § 1; Stats.1970, c. 760, p. 1438, § 3.)

Former section 9002 was repealed by Stats.1968, c. 1348, p. 2569, § 4.

§ 9002.1 Additional members; appointment; qualifications; term

In addition to the number of members provided for in Section 9001, the Governor shall appoint two additional members, who shall be qualified to be licensed under Article 5 (commencing with Section 17860) of Chapter 4 of Part 3 of Division 7. The first such additional members shall be appointed on or before January 15, 1971, one for a term to expire on June 1, 1972, and one for a term to expire on June 1, 1973. Each successor shall be appointed for a term of four years and shall continue in office until the appointment and qualification of his successor or until one year has elapsed after the expiration of his term, whichever occurs first.

(Added by Stats.1970, c. 1305, p. 2419, § 1.)

§ 9003. Tenure of members; vacancies

Each member of the board, except the members first appointed, shall be appointed for a term of four years and shall hold office until the appointment and qualification. . .

Asterisks * * * indicate deletions by amendment.
Italics indicates changes or additions by amendment.

NATIONAL FEDERATION OF PARALEGAL ASSOCIATIONS

Charter Members

Chicago Association of Paralegal Assistants.
Minneapolis Association of Paralegal Assistants.
Philadelphia Association of Paralegal Professionals.
D.C. Metropolitan Area Paralegal Association.
Rocky Mountain Legal Assistant Association.
Los Angeles Parlegal Association.
San Francisco Association of Legal Assistants.
Atlanta Association of Legal Assistants.

JULY 24, 1974.

Re AB 1814.
SENATE JUDICIARY COMMITTEE,
Sacramento, Calif.

DEAR COMMITTEE MEMBER: We, the undersigned members of the National Federation of Paralegal Associations, wish to go on record as stating our support for our co-members, The San Francisco Association of Legal Assistants and The Los Angeles Paralegal Association in their efforts to insure the adequate representation of members of our profession on any Board or governing body entrusted with the regulation and certification of legal paraprofessionals.

California is setting the tone for the rest of the nation in its establishment of this program. We believe it is vital that an adequate number of persons engaged in paralegal work be assured positions on the Certified Attorney Assistant Board, so that those persons most directly affected by the measures to be promulgated under this Bill will have a meaningful degree of participation in the determination of their own professional destinies. To do otherwise would be to establish a harmful precedent for the rest of the nation, and severely impede all of our efforts to have an effective voice in our own development. We urge you to consider appropriate amendments to this piece of legislature.

ROCKY MOUNTAIN LEGAL ASSISTANT ASSOCIATION,
By JENNIFER MOULTON, *President.*
ATLANTA ASSOCIATION OF LEGAL ASSISTANTS,
By CHARLOTTE BERGE, *President.*
CHICAGO ASSOCIATION OF PARALEGAL ASSISTANTS,
By SHIELA MOOLENAAR, *President.*
PHILADELPHIA ASSOCIATION OF PARALEGAL PROFESSIONALS,
By SUE LIN CHONG, *President.*
D.C. METROPOLITAN AREA PARALEGAL ASSOCIATION,
By CONSTANCE CAPISTRANT, *Steering Committee.*
By DEBBY FARQUAHAR, *Steering Committee.*
By SHANTABAI METELITS, *Steering Committee.*

JULY 15, 1974.

Hon. JOHN V. TUNNEY,
Chairman, Senate Judiciary Subcommittee on Representation of Citizen Interests, U.S. Senate, Washington, D.C.

DEAR SENATOR AND MEMBERS OF THE SUBCOMMITTEE: I am Chairman of the Division of Business Education at Canada College in Redwood City, California. It is my understanding that your subcommittee will be holding a hearing on July 23, 1974 concerning the potential of the Paralegal Program for lowering the cost and increasing the availability of legal services to American citizens. We have developed a paralegal training program at Canada College which has been underway for a little over one year, which program was developed by a joint committee of college personnel and the San Mateo County Bar Association. Upon receiving your letter of July 1, 1974, I consulted with various members of this committee in order to determine what might be the consensus of opinion concerning the questions which your letter raised.

What effect, if any, would accreditation of training programs and licensing of individuals have on the developments in the paralegal area? We believe that accreditation and licensing would have a tendency to slow down developments in the paralegal area, but at the same time, we believe that the long run positive effects of accreditation and licensing would out-weigh the negatives. If prospective employers and the general public are to have confidence in the paralegal program, we feel that it is mandatory that some standardization be developed regarding accreditation of training institutions and licensing of individuals. Otherwise, it appears there would develop a wide variation in qualifications of both training programs and individuals which would, in the long run, detract from the program and cause a considerable lack of confidence in the program. If the program is to accomplish the objective of lowering the cost and increasing the availability of legal services, a high quality must be maintained in both accreditation of programs and licensing of individuals.

Should institutions which train paralegals be accredited? Definitely. In addition to the reasons already set forth, persons entering the paralegal program should have some reliable means of determining whether a particular institution can give them quality training in that program. Otherwise, talented students could end up in a sub-par program that would not only waste a great deal of time and money, but could possibly destroy their enthusiasm for the program.

Who should control the accrediting if it is done? Generally, we feel at this time that the various State Bar Associations are in a better position to control the accrediting of institutions and training programs. This could also be handled on a national level, although it would appear that State accreditation could be accomplished more economically.

Should individual paralegals be licensed? Yes. We see no other way that the desired quality of persons in the paralegal progrm could be maintained. Without that quality, confidence in the program would soon dissipate, both on the part of the general public who might be using the program, as well as prospective employers.

Who should control the licensing if it is done? Since it appears that the licensing of attorneys is more efficiently handled on a State level, likewise it would appear that the licensing of paralegal personnel could also be more efficiently administered on the State level. Perhaps testing and other standards could be fixed or standardized on the national level, but the administration of licensing should be on a State basis.

Thank you for allowing us to comment on these matters.

Yours very truly,

Louis Yaeger,
Chairman,
Business Division.

A Statement Prepared by the American Association of Community and Junior Colleges

In recent years, increasing numbers of organizations and individuals have begun advocating the training and employment of paralegals who can assist attorneys and personnel of the courts (referred to as legal assistants) or render rudimentary legal aid to persons or organizations within the community (referred to as legal aides). Regarding assistance to attorneys, the American Bar Association issued the following statement in 1968:

"It is now widely recognized that one of the critical problems facing our profession law is the inadequacy of the number of lawyers to serve, in the ways they have traditionally served, the very greatly expanded requirements of a burgeoning population with expanded needs for legal services in both civil and criminal matters. Consideration of the use of technically qualified assistants by other professionals has persuaded us that the bar too needs paraprofessionals, and that a practical solution to the problem of availability of legal services lies in this development."

A similar statement was written by Justice William O. Douglas in a concurring opinion announced by the United States Supreme Court in 1969:

". . . it is becoming clear that more and more of the efforts in ferreting out the bases of claims and the agencies responsible for them and in preparing the almost endless paperwork for their prosecution is work for laymen.".

The ABA, through its Standing Committee on Professional Ethics, has gone on record as officially supporting the utilization of lay assistants in a variety of tasks. Moreover, the ABA recently averred as a portion of its code of Professional responsibility that,

"A lawyer often delegates tasks to clerks, secretaries, and other lay persons. Such delegation is proper if the lawyer maintains a direct relationship with his client, supervises the delegated work, and has complete professional responsibility for the work product. This delegation enables a lawyer to render legal services more economically and efficiently."

The need for paralegal personnel transcends the confines of law offices. Chief Justice Burger, recently asked if the courts are required to do too much, responded:

"They are certainly being called on to do more than their resources permit. This is true from the bottom of the pyramid, in the minor-offense state and local courts, right straight up to the Supreme Court. With few exceptions, every level of the judiciary has more work than it can properly handle."

Asked if judges are willing to relinquish some of their administrative functions to legal assistance, the Chief Justice said, "When judges become thoroughly familiar with the potential of court executives, they'll not only be willing but anxious to have the assistance that these people can give them."

Professor Brown of the UCLA Law School observes that "Much of the work of the administration of our courts is done by, and perhaps better done by nonlawyers." Paralegals can provide essential legal services for judges, clerks, prosecutors, public defenders, and other court personnel as well as assist post-conviction personnel such as corrections officials (wardens, jailers, cottage parents, etc.) and probation and parole officers.

Beyond the judicial sphere, itself, legal paraprofessionalism can be of value to private individuals (particularly the indigent), community groups such as consumer law organizations, business enterprises such as real estate and finance companies, and social agencies such as welfare departments—all of whom have need for legal aid which currently is, by the large, either unavailable or too costly. In other words, there is a need for paralegals both within and without the legal/judicial fields. Within, there is a growing recognition of the value of trained paraprofessionals who can assist with many of the routine tasks required in providing legal services to clients—just as paraprofessionals have been doing for many years in other fields such as dentistry and medicine. Outside the legal/judicial realm, public demand for more extensive and more efficient legal services has grown with the increase in population (and the resultant increase in the complexity of society), the increase in litigious proceedings, and the rise in legal costs.

Recognizing a need and meeting a need are different matters. Brown asserts that both the practicing legal profession and the academic legal profession have failed to meet the demand for trained legal aides and assistants. His assertion is supported by ABA's Special Committee on Legal Assistants which reported in April 1971 that "relatively few educational institutions are providing training for legal paraprofessionals beyond the secretarial level." The latter publication notes, however, that "recently . . . vocational schools as well as two- and four-year colleges and universities have expressed an interest in the development of a curriculum which would provide a career path for persons interested in employment as paraprofessionals in a law office."

While two-year colleges by and of themselves cannot meet the post-secondary educational needs of every person in the United States, they do afford unique opportunities for large segments of the population to study while residing at or close to home. This is significant because not only is there a larger percentage of high school graduates entering higher education each year, but there is a rising popularity of adult and continuing education programs, throughout the country. Therefore, a two-year legal assistant program, properly structured to meet the needs of the local community, could attract students from larger segments of a given geographic area than could any other type of educational institution. This is especially significant in view of the fact that the proposed paralegal programs would attract people from the local community who would be training to meet local needs.

In 1968, the ABA Special Committee on Availability of Legal Services anticipated "that junior colleges will give courses to train most Legal Assistants that are to be provided for by any plan adopted by our profession." Now more than five years later, however, AACJC records indicate that only sixty-one (61) two-year colleges were offering courses that could be identified as legal services aides courses, most of these being concerned with legal secretarial science or business law. Clearly, two-year colleges have not developed paralegal programs to meet the expectations of the law profession or the needs of the public. There are two main reasons for this lack of program development: (a) scarcity of funds for such programs, and (b) little encouragement from legislative bodies.

To give support and encouragement to community and junior colleges to plan and develop paralegal assistant programs, where surveys made in depth have indicated a need and acceptance for legal assistant personnel, the American Association of Community and Junior Colleges is giving major attention to this program development, with a staff assigned to work exclusively in this field.

Although legal assistant training and education may be appropriate and effectively offered by several levels of education, there are some definite advantages to the training of legal assistants in the community colleges. Personnel educated and prepared in the two-year colleges are oriented to the needs of a particular community. The college can research and assess in detail the needs and job market in both public and private sectors with effective, detailed surveys, and has the flexibility to changing needs and the job market from year to year.

The community college is able to develop the modular curriculum effectively for flexibility of program and for meaningful "on the job" experience of the students as a part of the curriculum requirements. Also, education programs in the community college are offered at low tuition cost to the student, and these colleges are easily accessible to local students.

Quite important to the paralegal curriculum is the experience and history of the community college in the development of continuing education programs, as well as the fully integrated curriculum leading to the Association Degree. For personnel already on the job who have a need for up-grading their skills, or adding competence to their work abilities, the community college has had long experience in offering certificate programs and short term offerings.

The American Association of Community and Junior Colleges project will strengthen and make more efficient the qualities of the community colleges in their efforts to offer such programs. The colleges will be aided in developing the means to determine the potential job market in an area, on a continuing basis. To identify the tasks and necessary skills of the Legal Assistant, relative to the various functions he must perform is a necessary component of planning, as is also the necessity to structure an acceptable curriculum for all sections of the legal assistants' responsibilities.

Effective training is a prime essential element of providing quality legal services through the work of the legal assistant. However, equally important is the acceptance and proper use of the assistant by the legal community.

It should also be pointed out that, since education and use of the legal assistant cannot really be separated, the Association's project has taken positions on several important issues:

1. Lawyers, both in the public and private sector, must themselves receive education in the use and supervision of the work of the legal assistant;
2. Ethical considerations, the limits of what a legal assistant can do, must be clearly delineated. Professional ethics must be a part of any training program;
3. The state and national government should take a position of leadership in defining paralegal positions and functions and aiding in the establishment of career ladders for potentially able personnel.

As stated earlier, there are sixty-one paralegal assistant programs in community and junior colleges, with another thirty, approximately, in universities and proprietary schools. The community colleges offering the more mature programs report that the employment and use of the legal assistant in attorneys offices, and in other sectors where legal aid is offered, have reduced costs and have led to the ability of the attorney to increase case loads and handle them effectively.

It has been reported by these colleges that the starting salaries for legal assistants range from $9,000.00 to $12,000.00 per annum, depending on the section of the nation represented, such salaries less than those required by practicing attorneys. The principal gain in the use of the legal assistant, however, has been to release an attorney from performing the reference, research, brief preparation, case background, and routine interviewing chores so that he can devote his time more effectively to the professional requirements of his job, as has been found so productive in the dental and medical fields.

The American Association of Community and Junior Colleges, in concert with other sectors of higher education, has worked closely over the past decade with the National Commission on Accrediting and the regional accrediting associations to bring order and efficiency to the accreditation process. The Association strongly supports the position that all institutional accreditation should be directed by the regional associations, that the instrumentality of special programs accreditation, and this would include paralegal education, should be approved by the higher education community affected, and that special program accreditation should relate its form and function to regional accreditation association policies and procedures.

The Association further believes that institutional accreditation should be the basis for receiving federal support funds. Licensing is a second issue and in areas of long experience, such as medical and health education, we would caution against hasty procedures and plans. The licensing of individuals in any field is, in our opinion, a state function. However, it is urged that careful study of all factors involved, including the effects of licensing upon the education program, the effectiveness of the individual on the job, his employability, and his supervision, be undertaken before any specific plan of licensing be undertaken.

THE ASSOCIATION OF PARALEGAL PROFESSIONALS,
Philadelphia, Pa., July 30, 1974.

Attention: Neil Levy, Assistant Counsel, Subcommittee on Representation of Citizen Interests, U.S. Senate Subcommittee on the Judiciary.

Office of Senator JOHN V. TUNNEY,
New Senate Office Building,
Washington, D.C.

DEAR MR. LEVY: We would like to take this opportunity to thank you for inviting The Association of Paralegal Professionals ("APP"), Philadelphia, Pennsylvania, to submit a statement to the Subcommittee on the subject of paralegals and their role in reducing the cost of providing legal services to the general public.

In accordance with Subcommittee rules, enclosed are twenty-five (25) copies of APP's statement. This paper, which was prepared by three members of APP who are employed by private law firms, was approved for submission to the Subcommittee by the entire membership of APP.

If, in the future, we can provide additional information to the Subcommittee, please contact us.

Sincerely,

SUE LIN CHONG, *President.*
FRANCES W. COOK, *Vice-President.*
WENDY C. SHIBA, *Vice-President.*

WRITTEN STATEMENT OF THE ASSOCIATION OF PARALEGAL PROFESSIONALS

INTRODUCTION

The legal profession has, in recent years, become increasingly aware of the concept of the paraprofessional within the field of law. Unlike the professions of medicine, dentistry and architecture, whose national organizations, the American Medical Association, the American Dental Association and the American Institute of Architects, have adopted positions as to the training, certification and utilization of paraprofessionals within each of their respective professions, the American Bar Association ("ABA") has only begun to investigate the role of the paraprofessional as it relates to the practice of law.

The ABA Special Committee on Legal Assistants ("Special Committee") was organized in 1969 (formerly the Special Committee on Lay Assistants for Lawyers, appointed in 1968) "for the purpose of encouraging and providing leadership and guidance in the training and employment of paralegals."[1] State and local bar associations across the country have also been examining the paralegal concept and many of them are currently in the process of adopting recommendations as to the official recognition, education and training, certification and licensing, regulation and utilization of paralegals.

This statement is being submitted to the Subcommittee on Representation of Citizen Interests of the United States Senate Committee on the Judiciary ("Subcommitee") in response to its ongoing investigation into the ability of all Americans to obtain quality legal representation at prices they can afford. Discussion will be limited to the examination of paralegal professionals and their potential for lowering the cost and increasing the availability of legal services.

DEFINITION OF A PARALEGAL PROFESSIONAL

There is no standard definition of a paralegal professional. (Because of the generally accepted usage of the term "paralegal" in lieu of paralegal professional, paralegal will be used, except in those direct quotations empoying the term "legal assistant". However, the assumption is that, in the existing field of literature on the subject, the two terms are interchangeable.) However, the paralegal is generally regarded as one who assists an attorney in the rendition of legal services and is qualified to handle certain work traditionally performed by attorneys. One member of the Oregon bar stresses the concept of working under an attorney's direction and control and says that:

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[1] Larson, Dr. Roger A., The Training and Use of Legal Assistants: A Status Report 1 (1974) [hereinafter cited as Larson].

> the (legal) assistant, so directed, can do almost anything the lawyer can do except give legal advice or appear in court. The lawyer is totally resible for the actions of the assistant.[2]

Others emphasize the aspect *of specific training in basic legal concepts* and skills, whether on-the-job or in formal training programs. One definition of a paralegal tackles the concept by defining what a paralegal is not: "The concept excludes some fairly well defined supportive roles in the lawyering process: secretarial, clerical, librarian, social worker, community aid and office administrator." [3]

One of the more comprehensive definitions is the following functional definition, developmed by the Special Committee:

> Under the supervision and direction of the lawyer, the legal assistant should be able to apply knowledge of law and legal procedures in rendering direct assistance to lawyers engaged in legal research: design, develop and plan modifications of new procedures, techniques, services, processes or applications; prepare or interpret legal documents and write detailed procedures for practicing in certain fields of law; select, compile and use technical information from such references as digests, encyclopedias or practice manuals; and analyze and follow procedural problems that involve independent decisions.[4]

Until a standard definition is adopted on a national level, the question is bound to arise as to whether or not the paralegal is simply a glorified legal secretary. A study conducted in 1972 by the Special Committee ("ABA Study") determined that a clear distinction is made within those law firms studied between legal assistants and legal secretaries. Such a distinction was evidenced by responses from firms indicating that legal assistants:

> have different job descriptions, earn higher salaries, are assigned different office space, do not perform stenographic duties, have college degrees, attend departmental meetings, do research, interview clients, delegate to stenographers, are not compensated for overtime and are entitled to bonuses.[5]

In an attempt to clarify the distinction between paralegals and legal secretaries, the Chicago Association of Paralegal Assistants has developed "two separate but equally strong parallel definitions of the legal assistant." The first it terms the:

> para-professional legal assistant, a resource of appllicable non-legal expertise within the practice of law. In addition to functioning in more routine matters such as filling out forms, filing papers, and indexing and abstracting, this para-professional brings such expertise as accounting, translation, business management, and extensive factual research background to the practice of law.[6]

The second class of legal assistant is defined as the "para-clerical legal assistant", who:

> brings to more routine matters a knowledge of office procedures and an ability to apply certain clerical skills to efficient and relatively independent completion of routine matters, subject to an attorney's review and signature. By this definition, intelligent, experienced and trusted legal secretaries have functioned as para-clerical legal assistants for many years.[7]

UTILIZATION OF PARALEGALS

Because of the broad application of the term paralegal, examination of the tasks being performed by paralegals is necessary for a greater understanding of the concept. Paralegals in the private sector of law are currently being trained and utilized as both specialists and generalists. The ABA Study found that paralegals are most often employed in the following areas of law: litigation, estate administration, corporate law, real estate, income tax, legal research and domestic relations.[8]

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[2] McMenamin, R. W., *Dawn of the Age of the Legal Assistant*, 59 The American Bar Association Journal 1448 (1973).

[3] Fry, William R., *A Short Review of the Paralegal Movement*, 7 Clearinghouse Review 463 (1973 [hereinafter cited as Fry].

[4] Larson at 17.

[5] Larson at 10.

[6] The Chicago Association of Paralegal Assistants, The Legal Assistant: A Self Statement 46 (1974) [hereinafter cited as Capa].

[7] Capa at 47.

Those tasks which are being performed with greatest frequency by the paralegals who responded to the ABA Study are as follows:

Index documents and prepare digests.
Prepare probate inventories and inheritance and federal estate tax returns.
Search and check public records.
Docket.
Shepardize.
Tax work.
Contact clients for information.
Investigations.
File papers.
Notify clients of approaching deadlines.
Draft wills, deeds and trusts.
Serve papers.
File motions.
Compile and select citations.[9]

It must be noted that the above list of tasks is not representative of the functions performed by the paralegals who were included in the ABA Study. The respondents were asked to identify the tasks which they usually perform from a list of thirty-one (31) specified tasks. Therefore, it is quite likely that paralegals are not only performing tasks not included on the list, but are performing them with greater frequency than those which were included.

A more comprehensive approach toward identifying those specific tasks being performed by paralegals was taken in a survey conducted by the Chicago Association of Paralegal Assistants ("Chicago Survey"). The Chicago Survey identified the following six (6) areas of specialization in which paralegals in the Chicago area are currently employed: probate, real estate, litigation, corporate, employee benefit plans, and trademarks and copyrights. In addition, a seventh category, the "Generalist", was created to provide for the legal assistant who performs tasks in three (3) or more of these specialty areas.[10] Respondents to the Chicago Survey listed one area as a specialty to which he or she devotes most of his or her time and rated various specific tasks according to how often and with what emphasis he or she performs such tasks. The following are the specific tasks most frequently performed by legal assistants in each of the six (6) specialty areas:

(1) Probate. Preparing court pleadings, inventories and individual inheritance and estate tax returns; valuing and transferring assets; preparing current and final accounts; and keeping estate accounting records.[11]

(2) Real Estate. Drafting deeds, proration statements, trust agreements and directions, beneficial interest assignments and contracts for purchase-sale transactions; drafting title insurance, title clearance and tract searches.[12]

(3) Litigation. Documents search in response to Motions for Production or Interrogatories; cite checking and shepardizing; indexing documents; preparing digests, abstracts, indices and/or summaries of transcripts; and to a varying extent research such as non-legal research, investigations and factual discovery, bibliographical research, interview of witnesses, interview of experts and consultants and preparing memoranda on non-legal research.[13]

(4) Corporate. Incorporations; Secretary of State filings; preparing promissory notes, powers of attorney and bills of sale; corporate reviews; Blue Sky research; preparing closing documents and binders; drafting shareholders' stock options and stock purchase agreements; and responding to comments on Blue Sky application.[14]

(5) Employee Benefit Plans. Gathering factual information from clients, accountants and actuaries; drafting pension and profit-sharing plans and related

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[8] Larson at 14.
[9] Larson at 54, 55.
[10] Capa at 16.
[11] Capa at 19.
[12] Capa at 23, 24.
[13] Capa at 27, 29.
[14] Capa at 33.

trust agreements; preparing forms for submission to the Internal Revenue Service; and maintaining and updating files of plans.[15]

(6) Trademarks and copyrights. Corresponding with other firms doing research; preparing applications; determining class; preparing copyright forms and renewals; dealing with foreign correspondents; and summarizing research reports.[16]

Paralegals are also employed in the public sector of law. A survey conducted by the National Paralegal Institute determined that paralegals are utilized by one hundred twenty-seven (127) out of the two hundred eighty (280) OEO-funded Legal Services offices and that their duties include interviewing clients, negotiating with government agencies on behalf of the clients in public entitlement cases, representing clients at administrative hearings, doing investigative work and doing legal research and drafting.[17]

ROLE OF PARALEGALS IN THE DELIVERY OF LEGAL SERVICES

The legal profession, the United States government and the American consumer agree that quality legal services are not readily available to persons of low and middle incomes.[18] It has been estimated that approximately 40,000,000 middle-income American families do not currently use lawyers[19] and as much as seventy percent (70%) of our population is either not represented or is under-represented by a lawyer.[20]

Consequently, growing attention has been focused on the development and implementation of services, such as group legal services, prepaid legal insurance, and specialization plans. The utilization of paralegals within such services can make legal assistance more widely available to American citizens.

A major deterrent to the seeking of legal services by the majority of American citizens has been the inaccessibility of lawyers and the prohibitive expense of acquiring these services.[21] The ABA created the Lawyer Referral Plan in an early attempt to solve individual legal problems. This plan endeavors to make lawyers more accessible to persons of moderate means by referring qualified legal counsel to those persons seeking advice. However, evaluation of this system has revealed that by the time a person seeks out an attorney through this method, he or she is already well into dilemma that might have been avoided with timely counseling. In addition, the referral plan does not solve the problem of reducing legal costs to the consumer.[22]

Through the development of prepaid legal services an attempt has been made to provide more readily available legal assistance at lower costs. Prepaid legal services have been recognized by the ABA as the "major mechanism of the future for delivery of needed legal service to persons of middle and low incomes . . ."[23] As of mid-1972, more than half of the state bar associations as well as some local associations were at various stages of considering their role within such programs.[24] Although there are many variations in the format of prepaid legal services plans, the actual use of one system rather than another does not appear to preclude the utilization of paralegal effort in the delivery of such services.

Prior to examination and suggestion of the ways in which paralegals may contribute to prepaid legal services, consideration of the proven effectiveness of paralegals within private law practice and the public sector is in order. H. Lee Turner, past Chairman of the ABA Special Committee on Lay Assistants for Lawyers, has structured his private law practice on the principle that "no lawyer performs work that can be handled by a person less skilled than himself."[25] In 1970, Turner and Balloun, located in Great Bend, Kansas, utilized three (3) attorneys and twenty-three (23) paralegals in the firm's general trial practice primarily directed towards negligence defense, workmen's compensation actions, and the area of product liability.[26] In addition, thirty percent (30%) are the practice was concentrated in diffuse business and probate law.[27]

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[15] Capa at 36.

[16] Capa at 38.

[17] Fry at 463.

[18] *See* ABA Code of Professional Responsibility and Canons of Judicial Conduct (1970) [hereinafter cited as Code]. *See also* Statement of Sandra DeMent, Executive Director, National Consumer Center for Legal Services, Before the Senate Judiciary Subcommittee on Representation of Citizen Interests, May 15, 1974 [hereinafter cited as DeMent]. *See also* Statement of F. Wm. McCalpin Before the Subcommittee on Representation of Citizen Interests of the Committee on the Judiciary, United States Senate, May 14, 1974 [hereinafter cited as McCalpin]. *See also* Testimony of Ralph Nader Before the Subcommittee on Representation of Citizen Interests, Committee on the Judiciary, United States Senate, May 15, 1974 [hereinafter cited as Nader].

[19] Morris, Lee R., *Group Prepaid Legal Services—An Insurance Viewpoint*, IX Forum 163 (Fall 1973) [hereinafter cited as Morris].

[20] Insurance Company of North America, Group Legal Services.

[21] Morris at 164.

[22] Zielke, Laurence J., *Increasing Legal Services' Consumerability: The Family Perspective*, 13 Journal of Family Law, University of Louisville School of Law 60 (1973–1974).

[23] Jaworski, Leon, *The Responsibility of the Profession to Provide Legal Services*, XIV Pennsylvania Bar Association Quarterly 233 (1973) [hereinafter cited as Jaworski].

[24] Jaworski at 233.

Analyzing these specific areas of his practice, Turner suggested that legal functions previously handled by attorneys could be taken over by lay persons or "legal specialists". Thus, defense litigation could be handled by trial specialists and deposition specialists, with the former preparing pleadings and interrogatories for attorney approval and the latter scheduling the dates of depositions and forwarding instructions to defense witnesses. Trial preparation such as assembly of exhibits and drafting of pretrial orders also fell within the purview of the trial specialists.

Determination of the client's situation in a plaintiff's personal injury case, previously considered strictly within the domain of the attorney, is an important function which Turner partially delegated to paralegals. Briefly outlined, the initial client interview process was handled by the attorney, who determined if any conflicts of interest were present.

Following a summary of the facts the attorney decided whether or not the case should be handled by the firm and if so, the necessary fee arrangements were completed. The client was then interviewed by a paralegal to determine past medical history, facts of the liability and damages of the present accident and present medical history. Using the report of the paralegal, the lawyer then reviewed the situation and conducted a short follow-up interview with the client. The file was ultimately returned to the paralegal for follow-up, progress memoranda, and calendaring of deadlines.

It is important to stress that the above-described process was conducted under the supervision of an attorney, as set forth under *Canon 3* of the *Code of Professional Responsibility and Code of Judicial Conduct.* The Code's ethical consideration EC 3–6 provides that a lawyer often delegates tasks to lay persons, including legal paraprofessionals, which is proper providing that:

> the lawyer maintains a direct relationship with his client, supervises the delegated work, and has complete professional responsibility for the work product. This delegation enables a lawyer to render legal service more economically and efficiently.[28]

The effective use of paralegals within the public sector's delivery of legal services has been proven by Community Legal Services ("CLS") of Philadelphia, Pennsylvania.[29] In providing legal assistance to the indigent in such areas as welfare law, domestic law, civil litigation, landlord/tenant cases, and administrative hearings, CLS has teamed lay persons with supervising attorneys to handle caseloads in an effective and expeditious manner.

Although the scope of paralegal responsibility varies a great deal according to their individual supervising attorneys and the area of the law in which they work, CLS paralegals on the whole have assumed a wide range of responsibility and are capable of performing numerous non-legal and legal functions. Often the paralegal is responsible for the initial evaluation of a case, which includes interviewing the client and reviewing background material, after which the case may be referred to an attorney. Alternatively, the paralegal may proceed to handle the case and work under the supervision of an attorney. Specific tasks performed by CLS paralegals include investigating complaints regarding reduced public assistance, evictions, lockouts, rental increases, utility shut-offs, child abuse and support payments; representing clients at administrative hearings in the areas of public assistance, welfare grants, Social Security, public housing and unemployment compensation; negotiating with government agencies and landlords; drafting petitions and simple pleadings; and preparing forms in connection with divorce proceedings.

CLS has been successful in utilizing a large ratio of non-lawyer personnel to lawyers. For example, in uncontested divorce cases, five (5) paralegals who interview clients and draft narratives for master's hearings and twelve [illegible]) information gatherers/typists work under the supervision of one (1) attorney. Similarly, a CLS center utilizes five (5) paralegals, one (1) law clerk and one (1) attorney in the area of public housing.

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[25] Turner, H. Lee, *Effective Use of Personnel in the Office*, XI Law Office Economics and Management 81 (1970) [hereinafter cited as Turner].

[26] Turner at 73.

[27] Turner at 73.

[28] Code, *Canon 3*, EC 3–6.

[29] Information regarding CLS was obtained through interviews with staff personnel, including an administrator and four paralegals.

The utilization of paralegals in CLS contributes to an efficient, economical delivery of legal services on a per client basis. Additionally, the CLS structure enhances rapport between the client and the paralegal, who is particularly sensitive to the needs of the client and has a commitment to delivering the legal services a client would otherwise not be able to obtain. CLS paralegals, who are often drawn from the client community, are able to strengthen community ties and maintain the psychological awareness of the accessibility of legal services.

Given the above models of proven effectiveness of paralegals and the economical use of attorney time, it is clear that paralegals have the potential to increase the effectiveness of prepaid legal services plans. The jointly sponsored Ford Foundation and ABA Prepaid Legal Services Plan developed by the Shreveport Bar Association is perhaps the best documented prepaid lagel experiment to date, and offers insight into the potential for future paralegal input.[30] The "Shreveport Plan," conducted with approximately six hundred (600) low-income laborers who were members of the Laborers International Union of North America, Local 229, lasted one year and revealed, among other things, particular legal problems commonly brought to the attorneys.

In order of frequency, the eight (8) most common legal problems were real estate (including sales, inter-vivos transfers, clearing of titles), twenty-six percent (26%); domestic relations (divorce, separation, custody, support, adoption), sixteen percent (16%); criminal charges (drunk driving, auto accident cases with criminal charges, other felonies and misdemeanors), thirteen percent (13%); workmen's compensation, twelve percent (12%); non-criminal traffic problems (automobile accidents and traffic misdemeanors), twelve percent (12%); successions and wills (involving personal and real property and making a will), seven percent (7%); credit and financing (defective merchandise, debt problems), six percent (6%) and other problems, eight percent (8%).[31] Based on the success and economy of the Turner and Balloun use of lay persons and the CLS utilization of paralegals, as well as the areas of paralegal specialties identified in the Chicago Survey, it is clear that many legal functions could be performed by the paralegal under the direction of an attorney.

A second plan, initiated by the Ford Foundation in conjunction with the ABA and the Los Angeles Bar Association, was developed from a survey conducted among two thousand (2,000) California school teachers earning approximately $10,000 to $15,000 per year.[32] The "Los Angeles Plan" encompassed fifty thousand (50,000) teachers and provided a brief "legal check up" form to be completed by the covered participant and submitted to the panel attorney for review. Based on the CLS method of delegating the review of background material to paralegals, it would appear that the use of lay persons to categorize areas of possible investigation for an attorney's review could minimize the amount of actual hours spent by the attorney at the preliminary stage. In addition to the legal check up, preparation of simple documents was also offered to covered members of the Los Angeles Plan. The drafting of these documents would also be a method of delivering quality legal services to the public and would allow the attorney in charge more time to devote to problems of the client which the paralegal could not be permitted to handle.

The "Proposal of Prepaid Legal Services" co-sponsored by the Insurance Company of North America and the Rock County Bar Association, Rock County, Wisconsin[33] provides for a preventive care and legal care checklist to identify legal problems that a participant might be facing. Again, a paralegal could review this list and identify areas demanding an attorney's attention.

The need for better delivery of legal services to the American public is unquestionable and it is urged that paralegals be utilized in order to help provide quality legal assistance to the public on a widely available basis.[34] Recent United States Supreme Court cases[35] have encouraged a change in the legal profession to open the availability of legal services to the general populace. ~~The passage of~~ H.R. 7824, which establishes a Legal Services Corporation, encourages education, research and training in the area of paraprofessional personnel. Just as the effectiveness of the paralegal has been ably demonstrated in private practice and the public sector, the use of paralegals can increase the quality of delivery of legal services on a national scale to all Americans.

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[30] *See* Marks, F. Raymond, Hallauer, Robert Paul, and Clifton, Richard R., The Shreveport Plan: An Experiment in the Delivery of Legal Services 1 (1974) [hereinafter cited as Marks]. *See also* Yancey, Clarence L., *The Shreveport Experiment in Group Legal Services*, XLIV Pennsylvania Bar Association Quarterly 236 (1973).

[31] Hallauer, Robert Paul, *The Shreveport Experiment in Prepaid Legal Services*, 11 The Journal of Legal Studies 230 (1973).

[32] Ashe, Lou, *Group Legal Services—Equal Justice in Fact—A Prognosis for the Seventies*, 23 Syracuse Law Review 1174 (1972).

[33] *See* Insurance Company of North America, Proposal of Prepaid Legal Services, Rock County Bar Association, Rock County, Wis. (December 14, 1973).

ACCREDITATION OF TRAINING PROGRAMS

The pros and cons of accrediting programs which purport to train paralegals have been under consideration for several years. In 1971, the Special Committee released recommendations for the establishing of training programs for three (3) levels of non-lawyer law office personnel: the legal secretary, the legal assistant and the legal administrator. The Special Committee recommended that (1) all paralegal training should be offered on a post-secondary level of education; (2) these programs should require the satisfactory completion of at least sixty (60) semester or ninety (90) quarter hours (approximately two [2] years); and (3) not less than forty-five (45) semester hours should be devoted to general education and law-related courses, with the remaining fifteen (15) devoted to legal specialty courses.

Adherence to the Special Committee guidelines would result in either a two (2) year community college or junior college course leading to an associate degree or a proficiency certificate with a concentration in the legal assistant field, or a four (4) year college course leading to a bachelor's degree with a major in a legal assistant program. Attached hereto as Exhibit "A" are summaries of several of these two (2) and four (4) year programs which were prepared by the Education Committee of the APP in connection with a survey conducted on the training of paralegals.

The Special Committee did not address itself to the type of paralegal training known as the specialty program. These are courses which provide the student with an in-depth knowledge of one area of the law. Attached hereto as Exhibit "B" are summaries of several of these programs which were prepared by the Education Committee of the APP.

If some form of academic preparation were absolutely necessary in order for an individual to function successfully as a paralegal, the process of accreditation would not be as difficult or as awesome as it is now. However, a large percentage of the paralegals currently employed in this country have not received any type of formal training above the college level. And, in the case of paralegals in the pubic sector, many have no formal education beyond high school. Therefore, the Subcommittee must recognize that completion of a formal training program is not a mandatory precursor to functioning effectively as a paralegal.

Based upon the foregoing considerations, it is apparent that it is too early in the development of the paralegal profession to formulate standards for an accreditation system for paralegal training programs. However, should the Subcommittee determine that an accreditation program is warranted, guidance for the implementation of such a program must come from within the paralegal profession.

LICENSING OF PARALEGALS

Both the skills and qualifications of individuals currently working within the paralegal profession and the attitudes toward and tasks assigned to paralegals by attorneys are widely varied, thus precluding any standardization of the field. Members of the legal profession as well as the public at large are not well informed about paralegals and the functions they are capable of performing. Furthermore, differing opinions exist as to what sorts of tasks a paralegal should be permitted to perform. Because paralegals work under the guidance and supervision of attorneys. The supervising attorneys currently bear the burden of exercising wide discretion in the specific tasks and areas of responsibility they are willing to delegate to paralegals.

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[34] *See* Brickman, Lester, *Expansion of the Lawyering Process Through a New Delivery System: The Emergence and State of Legal Paraprofessionalism*, 71 Columbia Law Review 1153 (1971). *See also* Nader, McCalpin, DeMent.

[35] *See NAACP v. Button*, 371 U.S. 415 (1963); *United Mine Workers v. Illinois Bar Association*, 389 U.S. 217 (1967); *Brotherhood of Trainmen v. Virginia State Bar*, 377 U.S. 1 (1964).

The topic of licensing and/or certification of paralegals is a controversial issue among members of the paralegal profession. Those paralegals favoring licensing generally feel that the establishment of licensing standards would upgrade the profession. The concept of minimum levels of competence and achievement would ensure the delivery of quality legal services and foster confidence in the capabilities of and work performed by paralegals on the part of both attorneys and clients. Furthermore, licensing would protect the professional standards and the status of the paralegal profession by clearly defining qualifications and areas of responsibility.

Notwithstanding the foregoing benefits of licensing, the disadvantages are many. The paralegal profession is in the early stages of its growth and any decision on the issue of licensing would be highly premature. The establishment of minimum standards at this time could work to the detriment of the legal profession in two ways: (1) by failing to certify persons capable of performing the work but unable to meet the standards; and (2) by setting restrictions on the scope of the work paralegals are licensed to perform, thereby frustrating individuals who are overqualified in terms of the minimum level of standards and curtailing their potential for contributing to the delivery of legal services.

SUMMARY

Paralegals have been shown to provide a variety of legal services in both the private and the public sector of the law, and the increased utilization of paralegals can help to provide an even wider delivery of legal services to the American public. The ultimate goal of improving both the quality and availability of legal services may in the future necessitate the licensing of paralegals and the accreditation of training programs. It is highly imperative that paralegals be called upon to participate in all stages of the licensing and accreditation processes, including examination of the issues, decision-making regarding licensing and accreditation standards and procedures and the overall regulation of the field. No one organization schould be vested with the authority to establish policy and exercise control over licensing and accreditation procedures.

EXHIBIT "A"

Name.—Cumberland County College—Legal Technology Program, P.O. Box 517, Vineland, New Jersey.

Year course started.—Information not available.

Admission requirements.—All candidates must submit their secondary school transcripts (or high school equivalency certificate) and their American College Test (ACT) scores.

Courses offered.—English Composition, Accounting, Business Law, Social or Behaviorial Sciences, Business Office Machines, Physical Education, New Jersey Legal System, Humanities, Science, Mathematics, Techniques of Legal Practice & Procedures, Mechanics of Property Transaction, Principles of Family Law, Administration of Estates and Legal Office Management.

Length of course.—2 years.

Materials used.—Information not available.

Teachers.—Information not available.

Cost.—County resident: $200/semester or $17/semester cr. hr.; Out-of-County residents: $450/semester or $32/semester cr. hr.; Out-of-State resident: $800/semester or $60/semester cr. hr.

Degree offered.—Associate in Science Degree in Legal Technology.

Placement services.—Information not available.

Accreditation.—The College is accredited by the Middle States Association of Colleges and Secondary Schools. The Legal Technology program was developed under the auspices of the Cumberland County Bar Association and has been recognized by the New Jersey Bar Association as its pilot program for the training of legal technicians.

Name.—Lane Community College, 4000 E. 30th Avenue, Eugene, Oregon.

Year course started.—The legal assistant program is still in the developmental stage.

Admissions requirements.—By application, no high school diploma necessary.

Courses offered:

Required Courses:

1. Legal Research and Writing.
2. Intro. to Law and Ethics.
3. Interview and Investigation Techniques.
4. Law Office Psychology.
5. Intro. to Law Office System and Management.

Elective Courses:

1. Civil Litigation I, II.
2. Real Property.
3. Corporations.
4. Estates, Wills and Trusts.
5. Income Tax.
6. Personal Property.
7. Domestic Relations.
8. Bankruptcy.

Length of course.—2 years.

Materials used.—Information not available.

Teachers.—Information not available.

Cost.—District resident: \$9.00—\$5.50 per cr. hr.; Non-district resident: \$19.00 cr./hr.; Non-Oregon resident: \$46.90 cr./hr.

Degree offered.—Associate of Science Degree.

Placement services.—College offers assistance through job placement bureau.

Accreditation.—In cooperation with the Oregon State Bar and the American Bar Association.

Name.—William Rainey Harper College Legal Technology Program, William Rainey Harper College, Palatine, Illinois.

Year course started.—Information not available.

Admission requirements.—"All high school graduates or the equivalent are eligible for admissions. A non-graduate 16 or 17 years of age who has severed his connection with the high school system, as certified in writing by the chief executive officer of the high school district in which the student has legal residence or a non-graduate 18 years of age or older, may be admitted if he demonstrates the capacity to benefit from programs offered by the College."

Courses offered.—Two programs are offered, one leading to an Associate Degree; the other, a Certificate Program is designed for those who are currently employed in the legal field. Courses offered in the Associate Degree program are as follows: English Composition, Intro. to Sociology, Accounting I, Intro. to Legal Technology, Litigation, Business Writing I, Intro. to Psychology, Accounting II, American Government, Family Law, Estate Planning and Probate, Income Taxation I, Business Law I, Real Estate Law, Legal Technology, Business Law II, and Humanities. Specialties in the Certificate Program are available in the following areas: Corporate Law, Criminal Law, Family Law, General Practice, Litigation, Real Estate and Tax Law.

Length of course.—The Associate Degree program lasts 2 years.

Materials used.—These programs appear to have a federal orientation.

Teachers.—Information not available.

Cost.—Tuition is \$14 per credit hour for residents of the college district. Activity fees of \$10 per semester for full time students and \$5 per semester for part time students are also charged.

Degree offered.—Associate Degree.

Placement services.—The Office of Placement and Student Aid assists students in obtaining scholarships, grants, loans, and employment both on and off campus.

Accreditation.—This course was begun under the sponsorship of the Chicago Bar Foundation and developed in conjunction with the Chicago Bar Association.

Name.—Merritt College—Legal Assistant Program, 12500 Campus Drive, Oakland, California.

Year course started.—Information not available.

Admissions requirements.—Information not available.

Courses offered.—This program is offered as a major. To qualify for the Associate Degree the student must satisfactorily complete the following required course: History of Law and Legal Institutions, The Lawyer and Society, Trial and Appellate Practice, Information Theory and Workflow Management, Office and Business Law Practice, Legal Research and Bibliography, Business 1 and 40, Economics 1, English 1A or equivalent and Government and Politics 1.

Length of course.—Information not available.

Materials used.—Information not available.

Teachers.—All of the instructors are attorneys, members of the Alamesia County Bar Association and experts in their fields.

Cost.—Information not available.

Degree offered.—Associate Degree.

Placement services.—Information not available.

Accreditation.—The program was set up in cooperation with the Educational Committee of the Alameda County Bar Association and is recognized by the American Bar Association.

EXHIBIT "B"

Name.—Widener College, Chester, Pennsylvania.

Year course started.—Information not available.

Admissions requirements.—Is selective and is normally limited to those with at least 2 years of college. Transcripts and TWO letters of recommendation are required. Applicants with legal-work experience who are sponsored by employers will also be considered.

Courses offered.—Intro. to Law, Litigation, Real Estate and Mortgages, Estate Planning and Management, Business and Corporate Law. Specialize in ONE of these: Litigation II, Real Estate and Mortages II, Estate Planning and Management II or Business and Corporate Law II.

Length of course.—3 months (June 3 to August 31). An additional 200 hours of study will be needed to succesfully complete the course.

Materials used.—Information not available.

Teachers.—Prominent attorneys who are members of the College faculty and are experienced teachers.

Cost.—$900 for tuition plus a $15 application fee which is non-refundable. Cost of books and materials will amount to less than $100.

Degree offered.—Certificate.

Placement services.—Widener College *cannot guarantee* employment, it will make every effort to assist them in finding suitable positions.

Accreditation.—Information not available.

Name.—Mercer University—Lawyer's Assistant Program, 3000 Flowers Road, N.E., Atlanta, Georgia.

Year course started.—Information not available.

Admission requirements.—Hold a Baccalaureate Degree, successfully pass a personal interview, submit a transcript of your college grades. (B average or better).

Courses offered.—Intro. to Law, Legal Research, plus one of these areas for specialization: Corporations, Estates, Trusts and Wills, Litigation on Real Estate and Mortgages.

Length of course.—12 weeks.

Materials used.—Information not available.

Teachers.—All courses are directed by practicing attorneys who have strong backgrounds in the fields taught.

Cost.—$925 tuition fee plus a $25 nonrefundable application fee (total $950).

Degree offered.—Certificate.

Placement services.—Do not guarantee placement, but very successful in placing graduates.

Accreditation.—Information not available.

Name.—Institute for Paralegal Training, 235 South 17th Street, Philadelphia, Pennsylvania.

Year course started.—1970.

Admissions requirements.—A Bachelor's Degree is, in most instances, required for admission. An applicant should have earned a cumulative grade point average of at least B.

Courses offered.—There are courses in: Corporation Law, Employee Benefit Plans, Estates and Trusts, Litigation, Real Estate, General Practice or Criminal Law.

Length of course.—3 months, 4 months for General Practice.

Materials used.—The course materials used in each of the programs were developed and written by The Institute for Paralegal Training. These materials are available only to students enrolled in the program.

Teachers.—The faculty is made up of lawyers who teach the areas of law in which they have developed expertise while in practice.

Cost.—$950 for course in Corporation Law, Employee Benefit Plans, Estates and Trusts, Litigation and Real Estate, $1250 for course in General Practice or Criminal Law.

Degree offered.—Certificate.

Placement services.—The Institute operates a service for the placement of its graduates with law firms, corporate legal departments and banks throughout the United States. If The Institute does not find you a job, your tuition is refunded in full. You are guaranteed a job in all courses *except* General Practice and Criminal Law.

Accreditation.—Information not available.

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STATEMENT OF SAN FRANCISCO ASSOCIATION OF LEGAL ASSISTANTS[1]

INTRODUCTION

The San Francisco Association of Legal Assistants was founded in May of 1972. It presently has a membership of more than 125 persons, almost all of whom are working paralegals employed by financial district law firms.

The majority of our membership consists of college educated persons, with little or no prior legal experience, who have obtained their entire paralegal education from the firms who employ them; although some of our members have obtained formal paralegal training from UCLA, the Institute for Paralegal Training in Philadelphia, and similar programs.

Our primary activities center on continuing education and professional expansion; the latter of which deals with developing awareness, both within and without the legal community, concerning the value and functions of the legal paraprofessional.

To further these same goals, in June of this year the National Federation of Paralegal Associations was formed. Our Association, and those from Los Angeles, Denver, Minneapolis, Chicago, Atlanta, Philadelphia and Washington, D.C., agreed to affiliate in a structure which will preserve the autonomy of our individual groups, but allow us to work more effectively with those matters of mutual concern. We look forward to the expansion of the NFPLA and hope it will play a vital role in the development of our profession.

The following statement will outline the particular concerns of this Association regarding the development and regulation of our profession; many of which we know to be problems shared by other like groups, both within this state and across the country.

I. PROFILE OF THE PROFESSION

While other professions such as medicine and dentistry have utilized paraprofessional assistance for decades, legal assistants, or paralegals, have appeared only recently as a recognized profession, separate and between those of attorney and secretary. Since its inception, however, their numbers have mushroomed annually, especially within the last two to three years. In San Francisco alone, a survey taken by the San Francisco Association of Legal Assistants found approximately 50 individuals employed as legal assistants in that city in January of 1972, and well in excess of 125 persons employed in that same capacity only a year later, January 1973. And in a meeting of paralegal association representatives held this past June, it was found that the metropolitan areas of Los Angeles, Denver, Minneapolis, Chicago, Philadelphia, Atlanta, Washington, D.C., and San Francisco, contained collectively at least 1,000 and probably many more, persons employed as legal paraprofessionals. This still leaves uncounted the vast number of paraprofessionals employed in public sector law, as well as those of the metropolitan and rural areas not represented at that meeting. Considering that a decade ago it is unlikely that even 50 persons in this country were recognized as paralegals, it is clear the profession has grown with tremendous speed.

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[1] Submitted by Carla Berg, president.

Initially, legal assistants were employed primarily by the larger, most established firms in metropolitan areas such as New York, Chicago, Washington, D.C., Los Angeles, and San Francisco. This was because those firms had the man power and financial resources to underwrite what was still largely an experimental program.

That "experimental" stage has passed however, and the original profile no longer applies. Legal assistants are now found across a wide variety of legal enterprises; they are employed by sole practitioners, government agencies, public interest and poverty law firms, corporations and banks, as well as by the traditional "downtown" firms of great size.

The practice areas within which paralegals are utilized are of equal variety. The majority are employed by attorneys engaging in some form of litigation practice, civil (including great numbers in personal injury), criminal, business or antitrust. But their use certainly has not been limited to litigation firms. Significant numbers of paralegals are working in the probate, corporate, real estate, securities and tax fields as well. Many others have developed unusual specialties borne of the specific needs of their firms, for example, cargo claims or medical malpractice.

Paralegals have proven to be of especial utility in those sectors of practice where the lowering of legal services costs to the public is a primary goal. Because the paralegal takes on tasks which were formerly the repsonsibility of attorneys, but at a significantly lower rate, the overall economy of the firm, and thus the cost to the client, is greatly reduced. Thus the employment of legal paraprofessionals in neighborhood law centers, prepaid group legal services, and similar areas is increasing rapidly.

It must be stressed however, both to the members of the legal community who fear the dilution of professional standards, and to the public at large, that although the paralegal is functioning in areas that were formerly the province of attorneys, they are not practicing law. The public should not expect to see paralegals opening offices of their own to offer legal services *directly* to them at a lower cost. A paralegal's function is to assist attorneys, it is they who always have the primary responsibility to the client, and it is *through* the attorney that the legal assistant benefits the public. The fact that an assistant is always ultimately under the supervision of an attorney is the cornerstone of the entire paralegal system.

A paralegal's duties are usually circumscribed to areas of fact rather than law. He or she performs many of the "weeding-out" functions that are an inefficient use of the attorney's time—those tasks that do not require an extensive knowledge of legal theory to be performed properly. Thus, a paralegal performs such duties as interviewing clients and witnesses to obtain the facts of the case, reviewing such factual data as medical records, earning information, correspondence and the like, pertinent to the support of a claim or cause of action: all of which is then communicated to the attorney for the formulation of legal strategies.

Paralegals can also relieve the attorney of many of the more routine aspects of work that is definitely legal in nature, such as uncontested divorce actions, simple wills, drafting articles of incorporation and so forth.

In the public sector legal personnel are called on to act as "troubleshooters" as much as they are called on to actually represent clients in legal proceedings. A great percentage of the legal services' office workload involves matters that never reach a courtroom, but are rather problems with landlords; creditors or administrative agencies where a phone call or letter to the proper person will solve the problem. This is the kind of assistance that is especially appropriate for delegation to paraprofessional personnel, and the reason why they are proving so valuable in the public services area.

II. ECONOMICS OF PARALEGAL UTILIZATION

It is clear that there is not only a need and purpose for legal paraprofessionals, but that the profession contains great economic benefits for both attorneys and clients.

In many private firms time is billed directly to the client at an hourly rate, on a graduated scale corresponding to the attorneys length of experience. Most of these firms who also utilize paralegals also bill their time directly to the client, but at a significantly lower hourly rate. These rates usually range between one-half and two-thirds the rate used for the least experienced attorney in the firm. As a result, the firm saves because the attorney's productivity is vastly increased, and the client saves because at least a portion of his case is being handled by someone whose hourly rate is much lower than that of the attorney.

Paralegal utilization is also of great value in contingent fee matters where the recovery of any fees at all is always a risk. A great number of these cases involve personal injury litigation, where factual development is fundamental, and paraprofessional assistance especially appropriate. Again because the cost of the paralegal is less, the firm benefits whether the case is won or lost. If it is lost, the firm's loss involves less of its attorney's more expensive time. If the case is won, the attorney has spent less of his more valuable time in relation to the amount recovered, and thus is getting a higher return is relation to the costs expended. And again there is the advantage that by delegating significant portions of the work, the attorney is freed to handle a larger caseload.

Similar factors make the paralegal an economic benefit in the public sector and in prepaid group legal services. In those areas remuneration is relatively fixed, regardless of the breadth of caseload. Thus, it is vital that the highest yield possible be obtained from the time of all employees. In this setting it is nearly imperative to delegate work that does not *have* to be done by an attorney, to one whose cost of operation is less. If this were not done, the costs of service would soon exceed the financial resources available, with the result that the burden to the government, in the case of federally funded services, and to the public, in the case of the prepaid and independent public sector, would vastly increase.

III. PARALEGAL EDUCATION AND THE QUESTION OF ACCREDITATION

In California, the majority of currently employed paralegals have been trained by the firms who employ them. In a large measure this is because most paralegal training programs in the state have only been instituted within the last two years or so. Even with the advent of formal training programs, however, many firms still prefer to train their own candidates, and there is some debate as to which approach is more effective.

Because, as noted, a paralegal's function is usually circumscribed to areas of fact rather than law, a broad spectrum knowledge of legal theory is not as necessary—nor even always useful. A paralegal training program cannot, and should not, attempt to be a mini-law school. It is not necessary because a paralegal's task is much more concrete, and it is not desirable because no such program can hope to give an assistant the powers of legal analysis an attorney acquires in three years of rigorous study. The emphasis in legal assistant training beyond a knowledge of fundamental structures and procedures, should be on the acquisition of information handling tasks, i.e. synthesization, and facility with language. Exceptions to this would be in areas such as the more technical aspects of corporate law and probate, where specific requisites such as forms of wills, inheritance laws, or methods of incorporation are definable.

With respect to many of the skills required of a legal assistant, it can be argued that one learns them best simply by doing them. In evaluating applicants, especially during the period when academic training in the field was not available, many firms looked to the individual's academic background, his evidence of abilities in writing and research, rather than specific legal experience. Most such firms found that by virtue of the academic experience, these individuals were able to assimilate new information, i.e. the legal knowledge required, very quickly; and since the skills of information gathering were present to begin with, most of these persons were performing quite capably within a short period of time.

This is not to suggest, however, that only persons with proven success in academia make good paralegal candidates. Another obvious source is from the ranks of experienced legal secretaries, especially those who have demonstrated above-average initiative and responsibility. Many firms found their original paralegals from among their own existing staffs and indeed—as many secretaries will heartily testify—great number of them are already doing work that should be classified as "paralegal". With a candidate who has been a legal secretary, the emphasis in training may often shift from the acquisition of legal knowledge to the acquisition of information gathering techniques, depending upon the candidate's own education experience.

Even with formal training in legal assisting, a candidate requires initiation into the specific practices and procedures of the hiring firm. There is no doubt that a background in legal systems and procedures will aid the candidate in making that transition, but it has been the experience of many that the same awareness is gathered rather quickly simply by immersion into the job itself. And in the case of many with prior legal exposure, such as the former legal secretary, this basic knowledge is already present.

In the public sector, on the job training is especially appropriate. Since as described, a great deal of the work is "trouble-shooting" rather than actually legal, a knowledge of the particular community and its resources is at least as important as formal legal training. For this reason, many of the paraprofessionals in neighborhood law centers are persons from the community chosen not for their academic credentials, but for their ability to relate to and deal with the problems of the center's clientele. There have been many government-sponsored workshops and training programs throughout the country to provide these persons with the legal foundation necessary to make the transition into this profession.

Thus, it is clear that there are many different routes to becoming a legal paraprofessional, each of which is especially appropriate in different settings. Because paralegals have such a broad spectrum of backgrounds and functions, it is impossible to state that a single method is to be preferred. It is for this reason that we are opposed to any program of accreditation or licensing which contemplates a single route of entry.

This is not to say that some form of accreditation and training program is not appropriate. As with any new field, a number of persons have sought to "cash in" on the movement, and many programs of dubious value are being offered. Accreditation should exist, if for no other purpose, than to certify that any such program offers what it purports to offer. Hand and hand with this should go studies as to the most appropriate means of educating paralegals to perform in various areas. One such attempt has been made by the American Bar Association, who within the last year have promulgated guide lines for the accreditation of paralegal training programs. The American Bar Association emphasizes, however, that they are not attempting to establish any one model of education as being the most appropriate. They will evaluate programs as to their effectiveness for the goals for which they were established.

There has been some controversy as to the appropriateness of the Bar Association or any other body comprised solely of lawyers, having control over the accreditation process. We, as paralegals, have been especially concerned, since it is our belief that the paralegals themselves, who have the most intimate knowledge of the work to be performed, should be vitally involved in any such program. It is our hope that we will be meanfully included in the activities of the Bar Association or any other body, seeking to accredit paralegal training programs.

IV. CERTIFICATION AND LICENSING OF LEGAL PARAPROFESSIONALS

California has been especially involved in all of the issues for and against certification of paraprofessionals, since a bill was brought before the State Legislature by the California Bar for that purpose. The bill is only a vehicle for the process of certification. It does not purport to spell out how certification is to be accomplished, nor the standards that will be promulgated thereunder. Nevertheless, it is extremely important because it will be establishing who will be the participants in the determination of the standards and procedures.

The original form of the bill contemplated that only members of the State Bar would sit on the board entrusted with the regulation of paralegals. This proposal met with considerable opposition from representatives of paralegal interests, both in the private and public sectors. After several months of intense meetings and negotiations, compromises have been made by both sides. The most recent occurred at a meeting held last May, at which time it was concluded we had gone as far as possible in obtaining a meeting of the minds, and the remaining issues would have to be mediated by the Senate Judiciary Committee, who will hold the final hearing on this bill August 6th. The paralegal interests are still unhappy with the bill because it does not insure paralegal representation on the Certified Attorney Assistant Board, it merely allows it. Throughout these proceedings our particular concern has been that the people who stand to be most affected by this bill, the paralegals themselves, be allowed a meaningful degree of participation in the structure to be established. We have offered amendments to this bill to the members of the Senate Judiciary Committee which we feel will achieve this end, and hope that they will be favorably considered in the hearing on August 6th.

Initially, we held the belief that this entire movement towards certification was far too premature. We felt, and still do feel, that the parameters of this profession have yet to establish themselves, and that to initiate anything even potentially restrictive, would inhibit the full development of our profession. We feel that intensive studies as to the utilization and training of paraprofessionals should be undertaken before any kind of licensing or credentialing is undertaken. However, we were placed in a position where it was fairly certain that the legislation would pass, whether or not we opposed it. Therefore, we were forced to engage in negotiations so that compromises could be made to insure that the bill would be at least as flexible as possible.

We feel that the issuing legislation is as appropriate as the circumstances will allow. It does not prevent any persons engaged in paralegal work from performing the same tasks that they do now. Certification will be in no way mandatory, but merely a mark of achievement. It is contemplated that in the future, certain sections of the rules of unauthorized practice may be amended to allow paraprofessionals to engage in activities which are now denied them. In that event, there would be a distinction between the tasks a certified attorney assistant was allowed to perform, and those of a noncertified paralegal. Additionally, the bill makes clear that the board is to consider all legitimate routes of entry in promulgating standards. We hope to insure this, as well as the board's responsiveness to the paralegal community, by adequate representation of members of our profession in its ranks.

We view with alarm moves by other state bars which envision a less flexible program. The Oregon State Bar has issued a report which contemplates that only one form of education, a two year community college training program, will be the accepted mode of entry. This is entirely inappropriate since there is such a broad range of academic background and on the job training potentials available.

We are also distressed at any suggestion of actual licensure as put forth by the Illinois State Bar. The California legislation is acceptable because at least it does not attempt to exclude anyone from performing paralegal work, it only awards recognition for achievement. Licensing might be in order if the paralegal dealt directly with the public, and thus created a need for the public's protection. But because paralegals do not offer their services directly to the public, and because their paralegal functions are strictly circumscribed by the laws of unauthorized practice, this is not a threat. We feel that any sort of licensure is entirely unwarranted at this time. Not only would it severely retard our growth, it would exclude many persons from participating in the profession who deserve to do so, since as pointed out many paraprofessionals in the public sector do not have traditional kinds of academic backgrounds. Licensure would almost certainly involve examinations, if not also educational requirements, and thus exclude these persons from doing the work for which they are so sorely needed.

If regulaiton of paraprofessionals in the law is to occur at all at this time, we feel it imperative that it go no further than the California model, that is, recognition of achievement, but not exclusivity.

V. PROBLEMS IN DEVELOPMENT

The largest problem in our growth and development has not been public resistance, but attorney resistance. There has been a great reluctance on the part of many attorneys to utilize paraprofessionals or promote their growth. This has been based in large on the following:

(1) Fear of dilution of professional standards;

(2) Ignorance of the duties a paralegal can perform. (Many see them only as extremely competent secretaries, a complete misconception.);

(3) Ignorance of their economic benefits;

(4) Fear of competition between young lawyers and paralegals, further complicating an already tight lawyer job market.

All of this opposition is the result of a massive lack of awareness, something that the various Bar and paralegal associations are attempting to combat. Several states have offered programs in paralegal utilization and economics through their Continuing Eduction divisions, and textbooks on this subject are beginning to emerge. This trend must continue if the movement is not to be smothered by its detractors before it is allowed to develop.

One of the largest problems facing us as paralegals as a result of these attitudes, is a marked reluctance to allow us to participate in the decision-making processes affecting us. As discussed, we waged a difficult campaign in California to even have paralegals allowed on the Board which will determine their future, and even yet their participation is not assured.

Too often we encounter the attitude that because attorneys employ paralegals they know best what a paralegal does. This is not entirely true because while a lawyer sets the goals for the legal assistant, it is the assistant, once trained, who defines *how* that goal is attained in most cases. We are not suggesting by any means that lawyers have no role in the direction of our profession, we feel that that is as absurd as suggesting that the paralegals have no participation. But unfortunately, the latter has been not only suggested, but operative in may cases. This is a rend we intend to resist wherever possible. It cannot be overemphasized that attorneys and paraprofessionals must work together in establishing whatever direction this profession is to take.

VI. CONCLUSIONS

1. Legal paraprofessionals have a proven need and utility. They have been highly successful in every sector where they have been employed, as evidenced by their phenomenal growth in recent years.

2. The economy of paralegal utilization is well established in both private and public sectors. They are of special value in those areas where reduction of legal services costs is a primary goal or need, as they enable higher degree of attorney productivity by freeing the lawyer from tasks that do not have to be performed by one with an extensive legal background, thus reducing costs of delivery.

3. Both formal paralegal education and on-the-job training have merits as routes of entry into the profession, and neither should be excluded. Programs should be evaluated in terms of their effectiveness at reaching their stated goals, for a single educational model is neither appropriate nor necessary. Accreditation would be useful in eliminating ineffective or fraudulent programs, but should not be used as a means of promoting one model of education (for example, the two-year community college program) over another, as persons from all levels of academia have legitimate places in different settings. Any accreditation program should involve not only members of the Bar, but legal paraprofessionals and experts in the field of education as well.

4. Licensure is completely unwarranted at this time, as it will only have the effect of restricting the field's growth and excluding persons before the parameters of the profession have had an opportunity to develop.

Regulation of any sort is premature at this stage of the profession's growth. The public is not endangered because paralegals are not offering their services directly to them. They are always under the supervision of an attorney and bound by the laws of unauthorized practice. But if regulation must occur, the California model of certification, as opposed to licensure, is preferable. This allows a means of recognizing achievement without engaging in unwarranted exclusion.

5. The biggest barrier to the development of the profession is opposition from members of the legal community whose lack of awareness about the functions and benefits of paraprofessionals has resulted in many unwarranted fears and misconceptions. Education in this area must be expanded if the profession is to grow.

6. The involvement of the paraprofessionals themselves in any group concerned with their development and definition is vital, not only for reasons of equity, but to insure that no possibility or concern is overlooked in determining the future of this profession.

Enclosures:

The following items are submitted for informational purposes:

(1) San Francisco Association of Legal Assistants, Annual Survey, 1973—contains job descriptions, salary ranges, and comments about the profession, collected by the Association in September of 1973.

(2) Assembly Bill 1814, the Certified Attorney Assistant Act. Introduced in the California Legislature on Apr. 26, 1973, by Assemblyman Brown. Presently in Committee to be heard next on Aug. 6, 1974.

(3) Information and Interpretation of California Legislature Assembly Bill No. 1814, submitted by the National Paralegal Institute—discusses many of the issues we feel should be considered before regulation of paralegals is undertaken.

(4) Fry, William: "A Short Review of the Paralegal Movement," Clearinghouse Review, December 1973, vol. 7, No. 8.

(5) "Certified Attorney Assistants—The Loyal Opposition's View," the State Bar of California Reports, September 1973 a look at attorney opposition in California.

(6) Report of Committee on Economics of Law Practice on Legal Assistants, Mar. 6, 1973. This is the report of the State Bar committee which generated Assembly Bill No. 1814 now before the California Legislature.

STATEMENT OF THE ATLANTA ASSOCIATION OF LEGAL ASSISTANTS, INC.

My name is Charlotte Berge; I am President of The Atlanta Association of Legal Assistants. This statement is being prepared for use by the Subcommittee at its hearing on July 23, 1974.

STATE OF THE PROFESSION

Although nonlawyers have been used for a number of years in the rendering of legal services, the widespread use of the "paralegal" by the legal profession is quite new. The concept has gained tremendous popularity with the legal profession in a short period of time, thus making the questions of accreditation of training programs and licensing of paralegals extremely important to the attorney-employer.

Paralegals feel that the very newness of the profession is a mandate for caution and careful study in approaching, in particular, the question of licensing. Attorneys and paralegals are only beginning to learn about the levels of responsibility which a paralegal can assume. We would urge any body addressing the issue of licensing not to cut short this time of exploration by the premature limitation of duties.

In Atlanta, for example, there are paralegals employed as litigation, corporate, real estate, estate and trust, anti-trust and public finance specialists within large firms. These specialists are also employed in small firms, which depend primarily on general practice paralegals and those who specialize in domestic relations and criminal law. Paralegals in Atlanta also find employment in the Attorney General's office, legal aid service groups and government agencies (e.g. EEOC, U.S. Department of Labor, FTC). New areas of employment are beginning to open up within banks and corporations. It must be recognized that the evolution of the paralegal within each of these areas may be quite different and that these differences must be considered in any attempt to license or certify.

LOWERING THE COST OF LEGAL SERVICES

There is little question that the use of a paralegal can lower the cost of the *delivery* of legal services. The overhead of any firm, corporation or legal aid society can be reduced through the use of a paralegal rather than a lawyer. This is the argument which is most widely used, at present, in promoting the employment of paralegals among members of the legal profession.

Whether or not the public can benefit from the growth of the legal paraprofession remains to be seen. If a desirable outcome of the growth of this profession is increasing the availability of legal services to middle-income individuals, there must be leadership from the legal profession itself in encouraging the use of paralegals in this way. Paralegals fear, however, that some attempts at licensing may work directly contrary to this outcome.

ACCREDITATION

Accreditation of training programs for legal assistants is viewed as desirable if it insures that those entering the profession will receive a quality education. No school should be allowed to profit from the popularity of this new profession and to foist on the legal community a graduate who will damage the new and often tender reputation of the legal paraprofession.

Because the American Bar Association has been studying the issues involved in the training and utilization of paralegals for several years, its Special Committee on Legal Assistants is viewed as the most enlightened body within the legal profession on the paralegal. It is felt that the accreditation of training programs should be done by the ABA in conjunction with state officials involved in the accreditation of educational institutions and lawyers from the legal market which the training program seeks to serve through its graduates. At present, the possibility of paralegals participating in this process should not be overlooked.

The ABA has the means to begin to review programs for accreditation this Fall. Their accreditation process includes a visit to the training school by an evaluation team. Only one of the team members need be a member of the ABA Committee; the other members of the team are to be appointed by the Committee. It would be possible, through this evaluation team, to achieve the representation set out in the preceding paragraph.

LICENSING

The question of licensing is a much more difficult one for paralegals to address at this point in time. The immediate problem raised in any discussion of licensing is: What form will the licensing process take? If licensing is to be a narrowing process, a process of limiting the duties which paralegals can perform, most feel that it is premature. Paralegals have only begun to explore their possibilities within the legal profession. There are other problems. Because of the multitude of legal specializations, would a person have to hold a license in each area of his/her practice? Would licensing place liability upon the paralegal who it present is always answerable to an attorney?

There is also a problem with the word "licensing". Licensing seems to imply a curbing process. A person pays a fee and receives a license to operate within a very narrow set of limits. A license is something you must obtain before you can render a service.

Certification, on the other hand, implies a goal, a standard which you strive to achieve. Most paralegals are in favor of such a certification process. They feel that it would lend status to their profession and increase their salability to attorneys.

Paralegals in Atlanta, however, are very divided on the question of controlling the licensing or certifying process. The majority feel it should be done either by the organized Bar or by paralegals and/or educators in conjunction with the Bar. However, many paralegals feel they should control their own certifying process.

The direction which licensing or certification takes at present may be the key to developments in the paralegal area. Much study and discussion is necessary and paralegals are most anxious to participate in this process.

The questions we raise are:

(1) What role ought the paralegal play in the delivery of legal services to both the attorney and the general public?

(2) How do we insure the public that the service they seek will be rendered in a quality fashion?

Statement of Members of the Steering Committee, D.C. Paralegal Association*

I. INTRODUCTION

An exact definition of the term "paralegal" has not been formulated either by the organized bar or by paralegals themselves. This is due in part to the tremendous diversity of paralegal functions; it is also due to the constantly expanding and increasing nature of the paralegal profession. Another problem in achieving a single definition of "paralegal" is the difference in approach to the delivery of legal services in the private and public sectors.

Professor William Statsky defines a paralegal as:

"A person skilled in the delivery of legal services. His or her authority to practice his or her skills is based upon two sources: (1) The supervision he or she receives from an attorney, and (2) the special permission granted in statutes, regulations, and cases. Note that the latter source of authority is not necessarily dependent on the former." Statsky, William P., "Introduction to Paralegalism: Prospectives, Problems, and Skills" (West Pub. Co. 1974), Ch. 2, p. 2.

The average lay professional in law is usually a woman, between the ages of 22 to 45, who has gained entrance into her field by work experience. She frequently cannot afford the expense of continuing her education away from her usual place of residence; she is a highly motivated, competent individual. In public services she is either drawn from the community or is hired for her social understanding of the legal problems of her client. In the private sector,

"The paralegals * * * generally, are women; they are well-educated (usually with college and sometimes graduate degrees), * * * they are efficient, bright, well-organized, research oriented persons * * *." Ron Goldfarb, Washington Post, July 31, 1973.

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*Submitted by Ronald Brooks, Constance D. Capistrant, Deborah A. Farquhar, Shantabai J. Metelits, Linda Saunders, Laurie M. Wright, and Marya Young.

As a profession, the development of the paralegal field "* * * has been retarded by influences emanating from the manner in which law is practiced by lawyers * * * the only economic pressures for change are those resulting from cost increases in legal practice that cannot be passed along to the consumer (because the charge for the service is already at a high level) and from whatever persuasion is afforded by the fact that some law firms are turning in substantial measure to paraprofessional utilization. There is no empirical data which permits meaningful weighing of the countervailing economic pressures or measurement of their combined impact as compared to the persistency of traditional methods of legal practice. In addition, the traditional 'reluctance to delegate' may now amount to an institutionalized inability to delegate—with much more serious consequences to the legal paraprofessional movement." "Expansion of Lawyering Process Through a New Delivery System: The Emergence of Legal Paraprofessionalism," 71 Colum. L. Rev. (1971) pp. 1177, 1181.

That law firms are turning in substantial measure to paralegal utilization is supported by the fact that one large Washington firm expanded its paralegal staff from one to twenty-two persons in a period of one and one-half years. Even in large private firms, the delivery of quality legal services is intricately related to economic issues; although a reluctance to delegate still prevails to some degree, more and more attorneys are realizing that the use of legal assistants saves them both time and money. Many tasks formerly performed by junior associates in large law firms are now being delegated to legal assistants; for example, substantive factual research in non-legal areas, digesting and summarizing depositions and transcripts, digesting documents, indexing documents, and drafting interrogatories. The performance of these tasks by paralegals is more profitable to the large firm: attorneys are freed to take on more substantive, purely "legal" work and a larger case load. The availability and the reduction in cost of legal services is a more important and relevant issue in the public sector, where the low-income consumer is forced to seek legal redress free of charge. Nevertheless, the use of paralegals in the private sector is also relevant because it reduces the cost to the client: paralegal services are billed a lower rates than are attorney services.

Paralegals in the public sector often are referred to as "lay advocates," as differentiated from the term "legal assistant," used frequently in the private sector. The most significant differences between paralegals in the public and private sectors are in their roles: Public sector paralegals have a frequent advocacy role that generally involves close contact with, and sometimes actual representation of clients. Another distinguishing factor is the difference in motivation regarding the delivery of legal services between the two sectors. The prime motivation within the public sector is the delivery of adequate legal services to the public; that of the private sector is the anticipated profit margin. Paralegals in the public sector receive salaries ranging from approximately \$5,000–\$12,000, as opposed to paralegals in the private sector who receive salaries ranging from \$7,500–\$15,000.

Some of the institutions and programs that employ paralegals to aid in the rendition of legal services to the public are: Legal aid and legal services offices; advocate groups, agencies, and public interest groups representing consumers, senior citizens, tenants, students, prisoners, welfare recipients, migrant workers, women, and minority groups. They advocate tenants' rights, women's rights, welfare rights, and veterans' rights.

Indian paralegals in tribal courts, parajudges in community courts, and jailhouse lawyers are special categories of paralegals in the public sector. Though it is impossible to list all paralegal functions in the public sector, the following functions are performed by paralegals in the publicly funded law office; interviewer, interpreter, investigator, negotiator, formal advocate, legal researcher librarian, process server, social worker, community advisor and organizer.

II. TRAINING

The majority of paralegals are trained "on-the-job." Paralegals can receive training: (1) In-house; (2) in law schools offering formal programs with and without clinical training; (3) in four-year colleges; (4) in continuing education seminars; and (5) in permanent training institutes. Some of the methods utilized are "the system approach," which is the demonstration of the steps of a given case; the generalist approach of community and four-year colleges; and the law school clinical approach. None of these approaches have been found to be superior to the others. As William Fry, executive director of the National

Paralegal Institute, states: "Paralegal training is in an experimental stage."

Before determining whether formal training is necessary to fulfill paralegal assignments, it is important to understand that the assignments are as varied as the law firm, agency, or lawyer(s) for whom legal assistants work. The paralegal function in a small firm is much different than in a large firm, a title company, a neighborhood legal services office, government bureau, bank, or consumer protection agency. Yet the legal paraprofessional operates in all these positions and countless others. The paralegal may interview clients, appear in certain administrative hearings on behalf of a client, index documents, run the law library, supervise clerical staffs, edit publications, file motions, or investigate the scene of a crime. Clearly, no training program can possibly teach one to perform all these tasks, any more than an attorney learns techniques of cross-examination, or organization of an antitrust document case in law school. The same is true for the paralegal: much of the practical and substantive knowledge necessary to provide quality legal services is learned in-house.

What formal paralegal training can do is teach the basics of legal research, legal terminology, legal forms, and provide a brief background in substantive and administrative law. This training is necessary, and invaluable, if the paralegal uses those learned skills on the job. However, a great many paralegals have never and will never be required to perform assignments which require training. The attorney who requires an assistant to write briefs and research case law should consider hiring a trained paralegal, as the time necessary to teach the assistant may be prohibitive. On the other hand, if an attorney needs a paralegal exclusively to engage in nonlegal research, digest depositions and index documents, organizational ability and common sense are sufficient.

No course or textbook can teach verbal and writing skills, if a person has not acquired them by high school or college graduation. Concurrently, no course or textbook can teach one to effectively interview an upset or injured client.

The paralegal seeking employment should carefully examine the skills he or she has accumulated from previous work and educational experience. The employer should carefully examine the job responsibilities which he or she is seeking to transfer to the paralegal. In many instances, it may become clear that paralegal training is not necessary for the position the lawyer envisions. Research, library, editing, legislative, administrative or statistical work experience may substitute for formal paralegal training.

As the paralegal takes on extensive job responsibilities, the need for training may become necessary. At that point, the paralegal may elect to enroll in a training program, take evening classes, or attend seminars.

It is important that the employer not "puff" the duties of the position to the paralegal applicant, thereby securing an overeducated, overqualified person to perform clerical or messenger functions. This is particularly problematic at large Washington law firms. The paralegal should carefully gauge the job market before expending time and money on a paralegal training program, when satisfying legal work may already be available to a person with his or her particular experience and education.

The institutions offering paralegal training programs, especially those not affiliated with a college or university, must be carefully monitored by the bar associations, practicing attorneys, and especially by practicing paralegals. Practicing legal assistants are the best judges of the job market and of the structuring of courses to meet the needs of the diverse law firms and agencies in that area, and can offer the most astute suggestions regarding practical aspects of job responsibilities.

Training institutions should be monitored to ensure the training they provide is of a high academic and functional character. They should also be monitored to prevent unethical advertising practices. If the majority of corporate firms require a college degree as a prerequisite for employment the school should conduct a careful review of the possibilities open to the student without a college degree and inform the student before accepting her. If the student desires work in a neighborhood legal services office, the training institution has an obligation to make clear that courses on estates, trusts and probate are of peripheral utility at best.

The training institution has an obligation to those students who take formal training to actively investigate the actual and potential job market in that particular location. If it is clear that the majority of paralegal positions in the city are glorified clerical positions, the school must ensure that law firms, agencies, and public interest groups in the area hire graduates at a level of expertise consistent with the student's training. If the institution offers a placement service for the graduating student, it is imperative that the student's wishes are adequately considered, and that follow-up studies are conducted to measure job satisfaction, possibly a year after graduation. This is especially true for those institutions which charge the employing law firm a fee for paralegal placement.

We ask the Subcommittee to consider these questions: Given the diversity of paralegal work, is formal paralegal training necessary in all instances? If licensing of paralegals ensues, will adequate consideration be given to previous education and work experience in establishing equivalency status? Will any legislation attempt to discourage unnecessary and expensive training? The necessity for training should be the decision of the individual employer. Any future legislation should consider the proprietary interests which certain training institutions have as a prime motivating factor. The paralegal profession can avoid certain negative regimented aspects of the legal profession, while at the same time enormously aiding the goal of providing adequate delivery of quality legal services at a reasonable cost. Formal paralegal training is a necessity for some positions, and not for others. The person who has had formal paralegal training should certainly be given credit for it. It should not, however, be considered as a minimum qualification for the paralegal. Any expertise acquired through formal training programs can be as valuable as the expertise which the majority of paralegals, in both the public and private sectors, have acquired through in-house training and day-to-day job experience.

III. ACCREDITATION

Accreditation is defined as:

"The recognition of an educational institution as maintaining standards that qualify the graduates for admission to higher or more specialized institutions, or for professonal practice."

The key factors in the accreditation of educational institutions offering legal assistant training programs lie in the quality of education available and in the integrity of credentials awarded; concurrent to quality, and perhaps more important, are the options open to the graduate as a result of this training. The paralegal field is changing daily: Attorneys are becoming more and more aware of the diverse capabilities of legal assistants. The breadth of paralegal utilization is expanding as attorney acceptance, once a formidable problem, is becoming more prevalent. Hopefully this trend will continue and the paralegal field will be recognized as a profession unto itself.

The knowledge acquired by the legal assistant who has taken a formal course of instruction should reflect a diversity of skills together with a basic understanding of professional responsibility. The basic premise must be that legal assistant are *not* masters of the routine. As attorney acceptance is increasing, the scope of those tasks performed by legal assistants is changing and widening in substance and diversity. Although some technical expertise is the necessary result of any formal course instruction, overemphasis on the purely technical aspects of paralegalism will result in overstandardization of the functions performed by legal assistants. A profession once enhanced by the diversity of skills available to the client or to the attorney (i.e., substantive non-legal research in areas which complement the legal field) could become more or less totally dependent upon a purely "technical" approach. The end results of accreditation—the securing of jobs by competently trained individuals—should open doors, not close them. Overstandardization of paralegal functions will not allow for expansion in a field where a steady demand for growth has been demonstrated.

The implications of "The Evaluative Criteria for Guidelines for the Approval of Legal Assistant Training Programs" [Special Committee on Legal Assistants, The American Bar Association (March 29, 1974: Washington, D.C.] has far-reaching consequences for the paralegal profession as a whole. The statement asserts that the goals of any training program should reflect:

(1) "A responsiveness to the needs of the constituency which the program seeks to serve" and "a recognition that the program should qualify the graduates to contribute to the advancement of the profession, rather than serve only the purposes of the institution * * *"; (2) "sensitivity to emerging concepts of the role of the legal assistant in the effective delivery of legal services in both the private and public sectors of our society." Section G–201.

In the private sector, as in the public, the paralegal's constituency is both the attorney and the client. To project the most effective delivery of legal services, fluidity must be maintained within the profession. Mechanization of the paralegal function is incongruous with the emerging concept of the legal assistant: this concept is continuously changing as new demands are made.

Section G–301 of the Criteria states:

"The primary concern of a legal assistant training program is to develop occupational competence. The total program should, however, include general education as well as law related courses * * * the curriculum should stress understanding and reasoning rather than rote learning of facts * * * the curriculum should be responsive to changing needs and reflect research findings and experience related to the training and use of legal assistants."

Using reasoning processes to the best of his or her ability will enable the legal assistant to cope with the challenges presented by a continually shifting job function. The preservation of mobility within the profession will better serve attorney and client needs.

Section G–203 of the Criteria also states that:

"The legal assistant education program, including programs offered by law schools, shall have an advisory committee including participating lawyers, legal assistants from the public and private sector, faculty and school administrators, and one or more members of the general public."

To avoid placing constricting and artificial boundaries upon paralegal profession, it is vitally important that working paralegals have substantive input in the accreditation of institutions offering training programs. Legal assistants who feel a responsibility to the profession and to their colleagues will feel compelled to maintain a high quality of expertise as well as the necessary diversification to avoid overstandardization.

Formal paralegal training at an educational institution is not a prerequisite for paralegal work. In a survey taken by the D.C. Metropolitan Paralegal Association, only 29 of 163 legal assistants employed in the private sector were trained in formal programs. At Arnold and Porter, one of the area's largest firms, only 3 out of 22 legal assistants took a paralegal course of instruction; at Covington and Burling, an equally large firm, only 2 out of 18. Most of the legal assistants in the private sector hold a Bachelor's degree or graduate degrees, and possess research and writing skills that enable them to perform very competently in their jobs. Reasoning, research, and writing skills are not stressed in all "technical" programs. The "legalese" and expertise demanded by paralegal functions can be acquired through on-the-job training, which is often more relevant and useful than a formal course of instruction which presents facts in an isolated framework. It should be emphasized that, before the dawn of the modern "educational explosion," attorneys "read" for the bar by apprenticing themselves in a law office; in certain states, this is still done.

On the other hand, those students who are enrolled in formal programs affiliated with an accredited university should be given academic credit for training, in the form of either credit towards a graduate degree for those already holding a B.A., or credit towards an undergraduate degree for those who have not completed an undergraduate curriculum. Accreditation of quality paralegal training programs, by the Academic Senate and not just by the ABA, is a necessary adjunct to this rapidly expanding profession. It is imperative that: (1) working legal assistants act as an advisory board to any ABA Committee investigating this issue, and (2) that any governing body bestowing accreditation on selected institutions be comprised, in large part, of paralegals working in the field. Self-policing is of prime importance.

As pioneering legislation, California Assembly Bill 1814 will set an unfortunate precedent if enacted. Under this Bill, an "Approved program means any program for the education and training of certified attorney assistants which has been formally approved by the certified Attorney Assistant Board with the approval of the Board of Governors." In addition, the Certified Attorney Assistant Board is to "adopt and publish standards for approved programs for the education and training of certified attorney assistants." However, in defining the composition of the nine-member Board, the Bill establishes the provision that "only two" members "* * * may be persons engaged in paralegal work or be certified attorney assistants." This provision does not allow for adequate paralegal representation on the Board: legal assistants will be greatly outnumbered by other members not necessarily committed to their concerns.

AB 1814 provides that the Certified Attorney Assistant Board appoint an advisory committee (composed of representatives from various organizations utilizing paralegals) to "consider the impact of this act in providing more of the Public with quality legal services and in promoting employment of certified attorney assistants." This section of AB 1814 is in direct conflict with the segments of the bill discussed above, which seek to constrict, and thus ultimately limit, employment of paralegals.

AB 1814 states that:

"In approving programs, the Certified Attorney Assistant Board and the Board of Governors shall utilize, whenever feasible, equivalency and proficiency testing and other techniques whereby credit is given for the past education, experience, and on-the-job training as well as the quality of the course content and faculty or training staff."

Again, without adequate paralegal representation on the Board, equivalency standards will suffer from lack of functional input. Any equivalency standards established must take into account legal assistants in both the private and public sectors, and maintain the diversification and fluidity common to the profession. Above all, in any accreditation and ensuing certification process, the individual qualifications of legal assistants must be maintained. At this point in time, the profession cannot be delineated by a homogeneous group of characteristics and related qualifications.

Hopefully, the accreditation of highly regarded institutions will not encounter a struggle on the state level from those smaller "fly-by-night" paralegal training programs displaying an unprofessional and overzealous interest in monetary benefits. That these programs are sometimes accredited by the same governing bodies which accredit barber schools, for example, is not adequate. The educational requirements for an academic course are vastly different from the requirements of programs which prepare individuals to enter the "trade professions." If training programs are to be accredited by another body than the ABA, common criteria must be used by both.

The key to the accreditation process is disclosure, and again, diversification. Lesser quality training programs are often of an unrealistically short-term nature, and produce slipshod techniques together with a superficial understanding of the legal system. The regard for professionalism is lost in a propagandistic concern to train paralegals at an alarmingly rapid rate. In both the private and the public sectors, the antithesis lies in the obvious economic benefits derived from a wide-range usage of paralegals, versus the fear by many practicing attorneys that overly educated and qualified legal assistants will "usurp" the role of the attorney to a large extent. This fear is unfounded. The practice of law is already regulated by specific codes, including the Code of Professional Responsibility (American Bar Association, 1971). Section EC 3-5 of the Code states:

"It is neither necessary nor desirable to attempt the formulation of a single, specific, definition of what constitutes the practice of law."

The unauthorized practice of law is a separate issue which should not be confused with the practice of paralegalism. Self-government is of the utmost importance to the paralegal profession—a profession which does not want to suffer arbitrary and imposed limitations, and which will bear final responsibility for its credibility and integrity.

IV. LICENSING

Given the factual case against licensing, the contemplation of restricting paralegals to a well defined, proscribed role cannot be thought of as anything but discriminatory and elitist. Certification and licensing are the Syclla & Charybdis of paralegal education. Accredited institutions can, and should, give proficiency certificates for courses of study that students undertake. On the other hand, the historical impetus has been for certified persons and vocational educators to seek further recognition by the state, or governmental agencies through the medium of licensing. Licensing of paralegals should be avoided as an undesirable evil. The excessive bureaucratic standardization of paralegals can only result in the loss of very competent individuals from a profession seeking to ameliorate the lack of legal services.

The prerequisites for licensing of individuals have some major drawbacks. These drawbacks include residence requirements; attainment of alien status or citizenship; minimum age; successful completion of a set academic curriculum; work experience; tests, and a fee as a basic minimum for qualification. As is apparent from this formidable list, the requirements would eliminate vast numbers of those currently employed in the paralegal work force.

Residence requirements are protective devices to limit access to professions within each state. For the paralegal, this requirement may well be entirely meaningless, and is an economic penalty for geographic relocation. Since this use of time is unproductive for both the paralegal and the state, it could be better utilized to familiarize the paralegal with local laws.

The attainment of residence status or citizenship eliminates the participation of well qualified minority persons, e.g. Spanish or Chinese speaking persons who have the skills to be useful within their communities but do not meet the citizenship requirement. The problems faced by these two communities with Federal agencies such as Immigration and Naturalization services, the Social Services Administration and other branches of the Department of HEW are numerous and have been of grave social concern for too long a period of time. To further alienate these communities by depriving them of substantial process of law is not commendable.

Academic qualifications are not always the best standard to gauge the daily functional needs of paralegals. With the proliferation of institutions of higher learning within each community, the academic standards from institution to institution are less rigidly enforced. Assuming that only paralegal training is sufficient would be a disservice to those paralegals who do not have formal qualifications and yet function extremely well under given job situations.

In his "Report to the American Bar Association Special Committee on Legal Assistants," Mr. Luther Avery, Chairman of the Subcommittee on Licensing and Certification, identifies the purposes of licensing and certification, as interchangeable and states that:

"* * * The two purposes which are generally advocated as justifying a requirement of legal controls over occupational activities are the professional criteria (standards) and considerations based upon protection of the public (including the persons regulated)."

Towards the end of his section on Purposes of Occupational Licensing or Certifications he notes:

"* * * There may be economic, or social, or historical purposes that do not properly fit under either of the above purposes. For example, 'Upward Mobility' and the creation of 'Job Training' programs with identifiable goals."

This last statement bears closer scrutiny. "Upward Mobility," a somewhat overused derogative to describe persons who ascribe to the American ideals of social success, who are restricted in any form or manner, keeps persons who seek personal advancement within a confined milieu. Licensing imposes artificial limitations upon these person who through care and concern for their communities are placed in a situation of leadership. That these persons are usually outside the social framework and are members of minority groups is generally true.

The creation of "Job Training" programs has been virtually eliminated from HEW. Dependency on the federal government to provide training for all persons regardless of their status is to idealize the role of government. To be accepted in training programs, individuals are required to meet both educational and social standards. The latter requirements, stated or otherwise, do not always coincide with governmental definitions of individual integrity. Mr. Avery defines licensing as representing

" * * * the legal right of an individual exclusively to engage in an occupation or to be identified as specially qualified."

The implications of this statement are obvious, in addition to the stated purposes of occupational licensing. Licensing, by federal edict, would become the prerogative of the certified elite, those persons "specially qualified." This wide disparity of ABA attitudes and the attitudes of paralegals must be bridged.

Licensing requires a homogeneous, standardized product, capable of performing specific tasks, utilizing specific skills. However, any examination of the members of the profession loosely defined as "paralegalism" shows the extreme diversity of skills and talents utilized by most legal assistants in their jobs. For example, certain legal assistants are professional librarians, employed to work on large document cases. Other legal assistants are members of the community, aiding local groups, usually comprised of minorities with specialized needs (e.g., legal assistants who deal with urban low income residents). Any procedure should, of necessity, attempt to incorporate these diverse talents into a cohesive whole. The varying needs of law firms and institutions employing legal assistants and their constituents are such that the undue limitations proposed by licensing would impair services offered to clients. Licensing has three victims: Legal assistants, law offices employing lay persons and the indigent public whose legal needs are proscribed by social circumstances.

Legal assistants have worked in conjunction with attorneys, complementing the attorney's legal knowledge with parallel specialties on a consultancy basis. That firms have hired personnel to conduct substantive nonlegal research in areas such as economics and industrial psychology is an indication of the necessity to retain fluidity and mobility among legal assistants. Any attempt to create artificial boundaries, limiting a profession that is now highlighted not by its homogeneity, but instead by its heterogeneity is counter-productive. Licensing acts as a deterrent to people who cannot pass an examination based on an arbitrarily defined standard. Standardization of exams, has, in itself, been repeatedly attacked as an inflexible system, preventing the entrance of women and minority members. The profession, as it now stands, is not limited in scope or variety. Minority races and women are well represented. Creating a professional guild organization, with the traditional limitations suffered by guilds, would indeed be irresponsible.

The paralegal can most accurately be defined as "a person with legal skills." It is evident that the extent of training in a private law firm, in the public sector, or in academic institutions is limited. This training does not enable a paralegal to advise clients except in agency matters. One of the stated objectives of paralegal education is to supplement legal services without usurping the attorney's place. The scope, intent and extent of their function is to facilitate the delivery of legal services. There is no justification to license such individuals unless the Bar Association's intent is to create an equally powerful parallel profession.[1]

The only pending legislation that deals with paralegals is California Assembly Bill 1814. In § 6032 (§ 1 of the bill) of the Business and Professions Code of the State of California, it is quite clearly stated that:

"* * * No compensation shall be paid directly to such person by the client to whom the services are rendered except where such person is a permanent employee of the client and the compensation for such services rendered is with the consent of the supervising member of the State Bar."

The persuasive arguments for licensing have failed to mention perhaps the most crucial issue of all. All licensed persons, with the possible exception of physicians' assistants, within the U.S., have the legal right to have and maintain their own separate places of business, e.g., CPA's conduct business in their own offices; the right to establish and collect their own fees, e.g., nurses can work outside the structure of a hospital; the right to form companies, with other members of their licensed profession, e.g., plumbers. If a profession is licensed, its practitioners must be extended the full privileges of professional status. In the case of paralegals this includes the right to deliver legal services to their own clients, in their own offices, from discovery through appeal of cases. The intent of this Committee is the delivery of legal services. The Committee should therefore, consider the increase in cost to the public which would be implicit in a licensed profession.

V. THE LEGAL NEEDS OF THE PUBLIC

The ABA Special Committee on Legal Assistants estimates that almost two-thirds of the population is in need of legal services which the legal profession is unable to provide presently. By 1980 the need for legal services in the United States is expected to increase by 24 percent.[2]

There are about 300,000 lawyers in the United States: approximately one for every 650 persons. The gap widens significantly within lower economic groups. There is a maximum of 5,000 attorneys to serve the 35 million persons who fall within government poverty guidelines; or a ratio of one attorney for every 7,000 low income persons.[3] The total amount of money involved in consumer controversies in the United States exceeds $100 million the amount involved in any single controversy is apt to be less, in many cases, than the cost of legal representation for the affected consumer.[4]

The high cost and growing demands for legal services, and the shortage of lawyers in the public sector presents a monumental problem for the legal profession. This is a social and moral injustice, and effectively denies many citizens a constitutional right to "reasonable access to the courts." *Boddie* v. *Connecticut*, 401 U.S. 371 (1971), held that due process is negated when a person seeking a divorce is denied access to the court solely on the basis of indigency.

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[1] R. Yegge and E. Jarmel. Eds., "New Careers in Law, Pt. II," Conf. Rep. of the ABA Special Comm. on Legal Ass'ts. (June 1971), p. 2.

[2] *Ibid.*, p. 1.

[3] Shestack, *The Right to Legal Services* in "The Rights of Americans" 110, 118 (N. Dorsen, Ed. 1970).

[4] Statsky, William P., "Introduction to Paralegalism: Perspectives, Problems and Skills." (West Pub. Co., 1974), p. 159. [Thereafter cited as "Introduction to Paralegalism."]

In *Johnson* v. *Avery*, 393 U.S. 493 (1969), Justice Douglas states, in his concurring opinion, which permits inmates to draft writs of habeas corpus, that:

"The increasing complexities of our governmental apparatus at both the local and federal levels have made it difficult for a person to process a claim or even make a complaint. Social security is a virtual maze; the hierarchy that governs urban housing is often so intricate that it takes an expert to know what agency has jurisdiction over a particular complaint; the office to call or official to see for noise abatement, for a broken sewerline, or a fallen tree is a mystery to many in our metropolitan areas."

The legal profession and government must address this grave underrepresentation of lower- and moderate-income citizens. The ABA Special Committee on Legal Assistants and the National Paralegal Institute, among other informed sources, advocates the increased and more effective use of paralegals as a major part of the solution.

A. *The use of paralegals in the public sector*

The legal profession has recognized paralegals since the early 1960's. The increased caseload and spiralling costs of legal services gave rise to the use of paralegals in poverty programs and more recently to their use in federal, state and local agencies. These respective agencies and programs used paraprofessionals to perform both legal and auxilliary tasks.

In 1968, a feasibility study of paraprofessionals in 24 legal services offices revealed that, out of 552 five-minute periods of behavior, one out of every four segments of behavior could be delegated to one paraprofessional, and two more to non-existing paraprofessionals.[5]

Today there are a maximum of 70,000 paralegals throughout the country. According to the Civil Service Commission, there are an estimated 30,000 persons in law-related jobs in the public sector. This, of course, does not include the hundreds who are involved throughout the country in privately funded and volunteer public interest community organizations. The National Paralegal Institute estimates that there are 1,000 paralegals working in Neighborhood Legal Services; 127 of the 280 OEO funded legal services offices utilize paralegals. Increasingly, federal, state and local agencies are training and employing paralegals: EEOC employs paralegals as legal technicians; the Labor Department employs paralegals as research assistants; the National Labor Relations Board employs legal clerks. The Paralegal Institute trains paralegals for employment and increased effectiveness in Neighborhood Legal Services, as well as acts as coordinator of paralegal information and activity.

Paralegals working in publicly funded law offices, such as Neighborhood Legal Services, perform valuable services to the lower income citizen. They determine eligibilty for social security, welfare, Medicaid and Medicare. They represent clients in hearings and act as negotiators up to the time of litigation. They act as social workers, and social and language interpreters vis-a-vis client and lawyer.

Ronald Brooks is an example of a paralegal working in a Neighborhood Legal Service office, at 14th and Park Road in Washington, D.C. He began his career as a "glorified office boy." He now handles cases from intake up to the point of litigation, under the supervision of an attorney. The majority of his cases consists of landlord/tenant cases. He also handles problems related to Medicaid, Medicare, and welfare. He has represented clients in four hearings—and won them all. He saves the lawyers a lot of time, which they can then spend in litigation. In addition, he explains rights and alternatives of action to clients, a service for which the attorney frequently does not have the time. He can communicate with indigent clients on a personal level.

The Dixwell Legal Rights Project, started in 1967 in New Haven, trains and recruits paralegals from the inner city to handle cases, conduct interviews, and act as community advocates by community teaching, negotiation with government agencies, etc. The Dixwell Legal Rights Project operates preventive law programs that include door-to-door campaigns on the part of paraprofessionals, who explain tenant rights, welfare benefits, etc. Community organization.s such as local women's centers, draft counselling groups and welfare rights organizations utilize paralegals as well as lawyers and law students. They serve as community interpreters of rights and act as advocates for the specific needs of these groups.

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[5] Statsky, "Introduction to Paralegalism," p. 24.

In the criminal area, paralegals are active in pretrial release programs, the securing of bail, the development of alternatives to incarceration in anticipation of imprisonment, and in some instances, argue parts of cases for the attorney. The jail-house lawyer does research in the prison law library, and counsels other inmates on their cases, in addition to filling out certain legal papers such as writs of habeas corpus.

B. The potential of paralegals in the delivery of legal services in the public sector

Paralegals potentially can lower the costs of legal services, as well as improve the quality of these services. The numberof lawyer-tasks which can be delegated and the potential for creating new job definitions need to be explored. This has been done in the medical field: There are now fifteen allied health professions, ranging from podiatrist to social worker. The answer does not lie totally in specialization; however, there is a tremendous need to have trained personnel in the legal field who can work together to improve and increase legal services. Paralegals can provide the personnel needed to develop programs for educating the public about prepaid insurance and other preventive law measures, perhaps utilizing the Dixwell method.

The legal profession can no longer retain its hierarchial, monolithic approach to rendition of legal services. The needs of the public are mounting. The ABA Special Committee recognizes that lay persons are already performing many tasks once done by attorneys. Government, the organized bar, and legal services must work together to create new delivery service teams.

VI. THE CONTROL OF PARALEGALS: ETHICAL CONSIDERATIONS

One of the concerns of state bar associations and the ABA is protection of the consumer against the unauthorized practice of law. Paralegals in the public sector are authorized to represent clients, and render legal advice. In certain tribal courts, small claims courts, and administrative hearings paralegals are authorized to practice law.

Johnson v. *Avery*, 393 U.S. 493 (1969), authorizes inmates to write writs of habeas corpus for other inmates. The Administrative Procedure Act (5 U.S.C. 5555, 15 C.F.R. § 205(3), and § 24–a of the Workmen's Compensation Act authorizes lay persons to practice law under certain circumstances.

Many paralegals perform functions that do not constitute the practice of law, but involve close client contact. Ethical Consideration 3-6 of the ABA's Code of Professional Responsibility states:

> "A laywer often delegates tasks to clerks, secretaries, and other lay persons. Such delegation is proper if the lawyer maintains a direct relationship with his client, supervises the delegated work, and has complete responsibility for the work product. This delegation enables a lawyer to render legal services more economically and efficiently."

Guidelines for ethical behavior should be established and promulgated by paralegals. It is the right of the public to be protected from irresponsible persons, whether lawyers or paralegals. But the guidelines must reflect the authorized forms of legal activity for paralegals, not the self-interest of lawyers.

The proposed California "Certified Attorneys Assistant Act", Assembly Bill 1814, establishes criminal penalties for those who do not become certified before they perform paralegal functions. It also denies certification to individuals who have committed a "crime": No differentiation is made between a felony or a misdemeanor. The community workers, jail-house lawyers and countless other average citizens who are performing invaluable public services will be denied the right to work.

A recent statement of the Illinois Practice Section of the Illinois State Bar advises that the Board of Governors of Illinois and the State Bar Association, with the approval of the Illinois Supreme Court, formulate written examinations, educational standards, and certification procedures. One of the intents is that "the legal assistants should have no contact with the public."

It is imperative that paralegals and members of the public participate in the certification of the paralegal profession. The needs and interests of paralegals and the people they serve cannot be adequately represented if the sole accrediting and certifying body is the ABA. Paralegals must explore and define their own profession with assistance from those who are vitally interested in the delivery of legal services to the public.

CONCLUSION

It is important that the Committee establish a representative group of those vitally interested, informed and/or affected by the paralegal profession, i.e., paralegals, lawyers and citizens, to study accreditation, certification and the effective use of paralegals in the delivery of legal services.

We are more than willing to help facilitate this action in any way possible.

NATIONAL CONSUMER CENTER FOR LEGAL SERVICES,
Washington, D.C., July 18, 1974.

Hon. JOHN V. TUNNEY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR TUNNEY: Thank you for your invitation to submit testimony on paralegals. The paralegal field is developing at a rapid, but uneven pace, creating great diversity of opinion about the role, training, and effective utilization of paralegals. In our view, the further use and development of paralegals is central to the broader issue of adequate delivery of legal services to 140 million middle income Americans.

The National Consumer Center for Legal Services, a coalition of labor, consumer, co-operative, educational and public interest groups, vigorously supports the development of high-quality, low-cost legal services for the middle income consumer through group legal service plans. We believe the role of the legal paraprofessional will be crucial in reaching this goal.

We will not in this statement focus too heavily on the potential of paralegals for lowering the cost of legal service delivery. The attorneys serving poverty programs, who were the initiators of large scale experimentation with paralegals, are better equipped to discuss the specific economic savings that paralegals can create. We would only point out that we expect to see early benefits of paralegal utilization in legal delivery systems that are public, non-profit, or group legal services, rather than private. The reason is simply that little incentive and no authority currently exists to cause private firms to pass on to their clients the savings (lower costs) made possible by use of paralegals.

In this statement, we will focus on questions of certification and regulation of paralegals, because we see a dangerous "rush to regulate." We feel strongly that premature action in this area should not be allowed to strangle the development of this new field. We are strongly in favor of some congressional expression of interest in paralegal development, lest sole regulation be assumed by the organized bar.

We have found that bar association regulation tends to be protective of existing legal structures and interests, discriminatory (toward minority groups), and generally restrictive of new entrants and new ideas into the legal profession. The most recent evidence of these attitudes can be found in the ABA's adoption of disciplinary rules regarding prepaid legal services. So severely restrictive are these rules that the Consumer Center may by early fall be locked in a legal battle seeking to have them declared unconstitutional. We do not wish to see limitations of this sort placed on the paralegal field before its fullest potential has been achieved. Speaking of regulation of the profession, Chief Justice Warren Burger recently stated:

"The views of practitioners who are affected cannot be controlling any more than we allow the automobile or drug industry to have control of safety or public health standards. There are 'consumers' of justice whose rights and interests must have protection."

II

NCCLS opposes mandatory licensing of paralegals. Licensing is a device most often employed for quality control and protection against abuse. To date there has been no evidence of abuse of the public by paralegals. NCCLS opposes licensing for the following additional reasons:

(1) There is no demonstrated need for licensing. The public is protected because paralegals function under the supervision of licensed attorneys.

(2) Licensing tends to limit the number of entrants to a profession, in part by raising the cost of entry. Restricting the number of practicing paralegals,

eliminates the opportunity to provide services at a lower cost, since lower costs for the consumer are achieved by a new division of responsibilities in the law office.

(3) The problem of adequately providing legal services to low income and minority groups would be aggravated by licensing of paralegals. Evidence of past licensing ventures does not support the likelihood of improved legal services delivery through the use of paralegals representing the community.

(4) Licensing would be repetitive in many cases. If the capability of the prospective paralegal has been established either through completion of an educational program or through on-the-job training and extensive experience, licensing would be an unnecessary and costly measure.

NCCLS proposes the use of voluntary certification in lieu of licensing. In our view, there are two acceptable routes leading to certification: approved educational programs, and on-the-job training and experience. High standards of performance and a sense of professional responsibility can be satisfactorily achieved through completion of an approved paralegal program or through proficiency gained from practical experience. Certification is not an exclusionary process. Exhibiting an adequate level of competance is the sole requirement of certification. None of the ill effects of mandatory licensing are present in this process.

Answers to questions of liability must develop in consequence of the greater or lesser role of the paralegal. Much professional concern has been voiced over the question of where liability lies for the paralegal's activities. Liability in existing paralegal programs, which require substantial supervision of the paralegal, rests with the attorney. The American Bar Association states in its Code of Professional Responsibility, Ethical Consideration EC3–6:

"A lawyer often delegates tasks to clerks, secretaries, and other lay persons. Such delegation is proper if the lawyer maintains a direct relationship with his client, supervises the delegated work, and has complete professional responsibility for the work product. This delegation enables a lawyer to render legal service more economically and efficiently."

Because the paralegal field is still a developing one, we expect to see the emergence of a new type of legal technician who may, through training of some kind, be qualified to perform legal services without the supervision of an attorney and who would bear the liability for his own actions. An area for such a development is perhaps seen in the new "divorce assistance" services.

III

The great diversity of opinion on developments in the paralegal field demonstrates the need for guidelines. Premature restrictions must be avoided, but decisions must be based on the best available information. Without some standards for development which reflect the broad interests of the profession, the consumer, and the general public, the paralegal field may come to be regulated narrowly and restrictively by the organized bar or may be subject to a patchwork of diverse regulation by individual state legislatures. Either alternative would destroy the opportunity for experimentation and full realization of the potential of paralegals.

It is our belief that an expression of federal interest would ensure more equal treatment of paralegal development state-by-state by establishing national minimum standards. The Consumer Center would like to see the formation of a Congressionally-mandated study group or commission charged with undertaking a study of the issues in the paralegal field. We realize that difficulties may exist in establishing the authority of Congress to enter into this domain.

To ensure representation of all interests and opinions, we suggest that the commission include representatives of the American Bar Association, consumer groups, educational institutions, state governments, the judiciary and the federal government.

Such a commission should undertake to answer the following crucial questions:

(1) Who is the paralegal? What distinguishes the paralegal from other employees in a law office?

(2) What roles or tasks will the paralegal play in the delivery of legal services? From which roles or tasks, if any, should paralegals be excluded?

(3) Shall paralegal services be performed only under the supervision of an attorney? Are there tasks or services which do not require supervision? Where shall liability rest for these services?

(4) What are the proficiency requirements or standards necessary to qualify as a paralegal? Must there be programs or procedures for their achievement?

(5) Need the paralegal be certified? Who should certify?
(6) Is the accreditation of educational programs or institutions necessary?
(a) Who should perform the acceditation?
(b) What should the standards for accreditation be?

The findings of such a commission would be valuable in the formulation of standards regulating the development of the paralegal field.

The provision of adequate legal representation to all members of our society is the major goal of the Consumer Center. Paralegals can help us achieve this goal, and we should not prematurely limit the role the paralegal can fill in the delivery of high-quality low-cost legal services.

Thank you for giving us this opportunity to present our views.

Most sincerely,

SANDY DEMENT, *Executive Director.*

Research assistance by: Gail M. Katz and Patrick M. O'Hare.

THE MISSOURI BAR,
Jefferson City, Mo., July 19, 1974.

Hon. JOHN V. TUNNEY,
Chairman, Subcommittee on Representation of Citizens' Interests,
Washington, D.C.

DEAR SENATOR TUNNEY: Attached for filing as a part of the record of the Subcommittee on Representation of Citizens' Interests is my statement as President of the Missouri Bar. The statement consists principally of the findings and recommendations of a special committee of our Bar which studied the use of paraprofessionals and the utilization of legal technicians in Missouri.

The recommendations contained in this study are still under active consideration by the Supreme Court of Missouri and by the disciplinary arm of that Court.

I trust that this information will be found relevant and helpful to the Committee in its consideration of the subject. The Missouri Bar feels strongly that this is a matter once again to be left at the state level and is not a feasible area for federal legislation.

Historically in Missouri and in most states, admission to the Bar and the practice of law falls within the purview of the judicial branch of the state government. The attached statement and study demonstrates the intimate relationships between admission to the Bar and practice of law, on one hand, and the employment of paraprofessionals and legal technicians on the other hand. Any effort to impose a federal mandate in this area is unwise and unnecessary in our considered judgment.

Sincerely yours,

ROBERT L. HAWKINS, Jr., *President.*

STATEMENT OF ROBERT L. HAWKINS, JR., PRESIDENT OF THE MISSOURI BAR

In March 1972 the Missouri Bar's Special Committee on Utilization of Legal Technicians was appointed and charged with the tasks of: (1) examining the subjects of use of nonlawyers in the performance of legal services, (2) determining whether further definitions are desirable in defining permissible tasks of such persons, (3) deciding whether certification of legal technicians is desirable with respect to their training, and (4) determining whether recommendations should be made to the Supreme Court of Missouri as to amendments of present Court Rules.

The committee researched the subject thoroughly and various members of the committee made intensive study in particular areas. Their reports were discussed fully by the committee as a whole. Finally, the committee prepared a report summarizing the conclusions arrived at by the committee, and its recommendations to the Board of Governors of The Missouri Bar. This statement summarizes the findings and recommendations of the committee as submitted to and approved by the Board of Governors of The Missouri Bar.

The fundamental issues to be determined are whether the legal technician should act independently (i.e., without lawyer supervision) in certain areas, and whether further protective procedures or rules should be adopted.

1. THE IMMEDIATE CONCERN FOR REVIEW OF THE SUBJECT

The urgency of our consideration of this subject is emphasized by the growing clamor for recognition of the "paraprofessional" or "legal technician" as an independent practitioner.

The committee has concluded that the legal technicians should not act independently but should at all times perform his services under the direction and supervision of a lawyer. "Ethical Considerations," comprising a part of Rule 4, *Code of Professional Responsibility*, adopted by the Supreme Court of Missouri on November 6, 1970, effective January 1, 1971, recognize the utility of the employment of nonlawyers (a) where "professional judgment" is not required, (b) where the lawyer maintains a "direct relationship" with his client, (c) where the lawyer "supervises the delegated work," and (d) where the lawyer "has complete professional responsibility" for the work product (See EC 3–5, 3–6, 3–7, 3–8). EC 1–2 cautions that "The public should be protected from those who are not qualified to be lawyers * * *." *The committee is in full agreement with these precepts and concludes that the legal assistant should perform services only under the direct supervision of a lawyer, and subject to the conditions of EC 3–5, EC 3–6, EC 3–7, EC 3–8, and other applicable restrictions contained in the Missouri Code of Professional Responsibility.* (Rule 4, supra).

2. THE CONTENTION THAT UNAVAILABILITY OF LEGAL SERVICES JUSTIFIES THE INDEPENDENT STATUS OF THE LEGAL TECHNICIAN IS NOT A SOUND REASON

The argument is presented by proponents of the concept of independent performance of legal functions by "paraprofessionals" that the unavailability of legal services makes such independence inevitable and essential. *The committee believes that any existing imbalance between the number of lawyers and the so-called need for legal services is temporary* and will adjust itself, particularly in view of the influx into law schools of students seeking to become lawyers. Law school enrollment has in the past decade increased to such an extent that in the fall of 1972 there were three applicants for each seat in the entering classes of approved law schools. The increasing number of lawyers *admitted* to the bar each year has inspired this editorial comment in the February 1973 ABA Journal (p. 152):

> "The interest of the public and the profession will be served by the joining of forces of the organized bar and the law schools to find suitable tasks for the increasing number of better-prepared and better-qualified men and women who are being graduated from our law schools."

Both the bar and society have the responsibility of making professional legal services reasonably available to all segments of society. *The committee concludes, however, that the concept of authorizing non-lawyers to function as lawyers in geographic or economic areas deemed lacking in adequate legal services is not valid, because it will result in inferior legal service to those areas, and in representation by persons not subject to the ethical disciplines applicable to lawyers.*

3. THE LEGAL TECHNICIAN, ACTING UNDER THE LAWYER'S SUPERVISION, IS BEST DEFINED BY THE TERMS "LAWYER'S ASSISTANT" OR "LEGAL ASSISTANT"

Clarification of the nomenclature applicable to our subject will be helpful. Numerous terms are used to denote the lay person performing services in the area of law. Such trems as "paraprofessional," "paralegal," "quasi-lawyer," "legal technician," or even "adjoint" are found in the current glossary of terms. *The committee believes that the designation "legal assistant" or "lawyer's assistant" will define more accurately the status of the lay person working with a law firm environment under the direct supervision and control of a lawyer.*

Having concluded that the legal assistant should function as an employee of of a particular lawyer or law firm, under the direct supervision of a lawyer, it then follows that *an independent contractor relationship is not consistent with the proper function of the legal assistant, since it suggests the exercise of independent judgment.* Therefore, persons employed to assist lawyers in specific areas such as photographers or technical experts in some fields are not considered to be included in the term of "legal assistants."

4. NEITHER CERTIFICATION OF THE LAWYER'S ASSISTANT NOR ACCREDITATION OF TRAINING AGENCIES SHOULD BE UNDERTAKEN AT THIS TIME

Consideration of the question of whether a legal assistant should receive a certification, either from a governmental agency or from The Missouri Bar was given. The certification of a legal assistant, if appropriate, could be accomplished by a Missouri Supreme Court rule establishing such a procedure, since the function of the legal assistant as visualized by the committee would be inseparably interwoven in the practice of law. Certification might also be accomplished by a procedure established by The Missouri Bar.

The principle of certification as an aid to the employer in determining the degree of skill of the lay job applicant is accepted by the ABA Special Committee on Legal Assistants. The report of that committee, No. 84, presented to the House of Delegates of the ABA at the 1972 Midyear Meeting, on p.p. 9 and 10, recommends both accreditation of teaching facilities and certification of proficiency, the latter being based on the indication of "skill level" and ability thus made available to the prospective employer.

Kline D. Strong, College of Law, The University of Utah, recommends "certificates of proficiency" endorsed upon the diploma, and on examination procedure.

The committee concluded that no Missouri certification of legal assistants is now necessary or desirable, and no Missouri accreditation procedure for training schools is now appropriate. Because of the proliferation of training programs and the sometimes misleading connotations present in advertising materials, those schools and agencies promoting courses of training in Missouri should be advised that persons acquiring degrees or certificates from such schools are not authorized to practice law. For example, at least one liberal arts college in Missouri awards a Bachelor of Science degree with a major in "legal studies." The committee has studied in further detail the implications of such degrees or similar "certificates" and the misleading effect thereof to the student and the public. The committee believes that clarification of the Supreme Court Rules, and, in particular, Rule 5.18, should occur.

The increasing number of "schools" offering courses for the training of legal assistants and the potential influx into the profession of persons receiving varying degrees of training, together with the possible misuse of certificates, diplomas, or other indicia of completion of such training, emphasizes the need for watchfulness and stringent enforcement of prohibitions against unauthorized practice of law.

It is, therefore, a recommendation of the committee that Supreme Court Rule 5.18 should be amended to clarify the authority of the Advisory Committee in this area.

5. REGULATION OF THE USE BY THE LAWYER OF CARDS, SIGNS, AND LETTERHEADS CONTAINING REFERENCES TO THE TERMS APPLICABLE TO THE LAWYER'S ASSISTANT SHOULD BE ACCOMPLISHED

The committee has considered other facets of the need for exercise by the Supreme Court of Missouri of its rule-making authority. For example, the use of professional cards by lawyer assistants or the placing of such names on letterheads or on office signs, or the use of references by legal assistants to certifications or degrees would appear to be deceptive and misleading to the public, in that such usage might imply that the assistant was qualified to exercise independent professional judgment. Informal Opinion 1185 of 5/31/71 of the ABA Standing Committee on Ethics and Professional Responsibility, relating to the use of the term "Legal Assistant" on the professional card of a law firm would appear to be inconsistent with DR 2-102(A)(1) [Rule 4, Code of Professional Responsibility, which limits by implication the content of such professional cards.

Clarification of Canon 3 of the Code of Professional Responsibility (Rule 4) should be accomplished through additional Ethical Considerations setting forth that the designation of a "legal assistant" or similar term on office stationery, sign, or professional card is misleading in that it suggests that the legal assistant so designated can exercise professional legal judgment, and this is misleading, constituting a direct violation of DR 3-101(A) which prohibits a lawyer from aiding "a nonlawyer in the unauthorized practice of law."

RECOMMENDATIONS

1. The Board of Governors recommends to the Supreme Court of Missouri the adoption of two additional Ethical Considerations to Canon 3 of the Code of Professional Responsibility, to be designated as EC 3-10 and EC 3-11, in the form attached;

2. The Board of Governors recommends to the Supreme Court of Missouri the adoption of the attached amended Rule 5.18 setting forth more explicitly the inherent power of the Supreme Court to define the "practice of the law" and "law business" and the power and duty of the Advisory Committee.

Recommendation No. 1 (Additions to Rule 4, Code of Professional Responsibility)

EC 3-10.—It is permissible for a lawyer to employ a lay person as an assistant and to delegate to such lay person tasks that do not call for professional judgment. However, the lawyer must supervise the delegated work, assume professional responsibility for the work product, and make certain that his client understands that the lawyer retains such responsibility.

EC 3-11.—A lawyer may not represent that a lay person employed by him is qualified to practice law or engage in the law business, nor may he countenance any holding out of such person as one having a trained familiarity with law and legal process, or as one who may render legal services directly to the client.

Recommendation No. 2 (Amendment of Rule 5.18)

5.18. Advisory Committee May Take Necessary Action for the Prevention of Unauthoried Practice of Law and Other Enforcement of These Disciplinary Rules.

Pursuant to the inherent power of this Court to define and declare what is the practice of law and to prevent the practice of law by laymen or other unauthoried persons, the Advisory Committee shall have the power and is charged with the duty, on behalf of the Bar of this State, of investigating the unauthoried practice of law and of instituting and prosecuting appropriate suits actions or proceedings against any parties and in any forums within or without the State of Missouri, for the purposes of protecting the integrity of the Bar of this State, of enforcing this rule, of safeguarding the personal relationship of attorney and client and restraining and suppressing intermediary agencies as defined in this rule, or prohibiting the solicitation for or the improper parceling out of law practice to any member of the Bar of this State, *of preventing the use by any person, association, firm or corporation of business cards, letterheads, office signs, licenses, certificates, diplomas, degrees, or other means or devices which might tend to mislead by holding out that a nonlawyer is qualified or competent to engage in the practice of law or engage in law business*, and of preventing the unauthorized practice of law, and of other practices tending to defeat or hamper the administration of this rule or to injure the members of the Bar of this State in the lawful practice of their profession; and to such end the Advisory Committee is constituted an authorized legal representative of the Bar of this State and shall have authority to act in the premises as fully and as effectively as though the proceedings were taken in the name of all the members of the Bar of this State.

STATEMENT OF AMERICAN PARALEGAL ASSOCIATION, LOS ANGELES, CALIF.

I. DIRECTION AND TREND OF THE PARALEGAL MOVEMENT

The only way I can give you the trend and direction of the paralegal movement is to give you a brief history of the movement since my involvement on or about April, 1972. April 12, 1972 was the date on which our resolution to study the feasibility of licensing the paralegal, the role to be played by the paralegal in the legal community and the appropriateness of recommending legislation for the adoption of amendments to the Business and Professions Code of the State of California, was adopted by the Beverly Hills Bar Association and subsequently its Board of Governors.

In June, 1972 I was privileged to attend the Canadian-American Bar Associations convention in Toronto, Canada, the theme of which was "The Growth of the Law Firm by the utilization of the Paralegal." At this point in time, the concept of the paralegal was not well known, or if known, not fully accepted. The established law firm did know who we were, yet alone, how to efficiently utilize our services to their and the public's advantage.

Thereafter, at the annual meeting of the American Bar Association in San Francisco in August, 1972, the "National Meet" unanimously accepted the concept of the paralegal and recognized the rapid growth of the concept to the extent that we were referred to as a "Frankensteinian monster," needing control.

Today, we are still uncontrolled and the advent on the scene of various and sundry schools (with talk of franchising the same) offering paralegal studies programs is prima facie evidence of the growth of the idea; and concept of, and in the utilization of paralegals in the established law firms and other related legal fields.

It is frightening to see the emergence of people calling themselves paralegals, simply because they are "helping the people," without some type of training or educational background. As in the areas of poverty law, welfare law, social security benefits, etc., where qualified, well-trained knowledgeable legal services are more important than in any other field. The reason may be that the average attorney has neither the time; nor the familiarity; nor the appreciation of these specialized areas of the law; nor therefore a recognition of the economical advantage that could accrue to him through efficient use of the paralegal in these areas.

Result: The public, who needs qualified, expert legal services to secure the benefits and protection in these and other specialized areas of the law, are denied the same; or are placed in the hands of people with good hearts and dedication, but who are ill-qualified and ill-trained to do an adequate job in protecting the very people they want to help. This statement is in no way intended to make light of the job these people do. Their job is a very important one, and very much needed in our society; but here too, we feel a certain standard of education or training should be set as well as dedication and good intentions.

In California, something is being done toward certifying and/or licensing these people; setting up guidelines to govern their conduct and the standard of their services. It is felt that the public has a right to know the calibre or degree of training and education of the paralegal serving them. And whether or not they are certified or licensed to perform a particular task. For the public today, is now looking for lower cost of legal services as well as protective legal services. In all candor, we must take into consideration the effect that the Watergate incident has had on the public as it relates to the trust or lack of it, in the established legal profession. Add that to the high cost of living and you can see the need for utilization of a paralegal in the law firm or industry or governmental agencies so that the greater portion of the general public, who needs legal services but who, because of the rise in the cost of said legal services, are least able to pay the increased and current high fees charged by the established legal profession for said services. Through the utilization of paralegals this portion of our society could obtain qualified, expert help and/or representation at a lower cost.

In this connection, I see the need for uniform laws regulating the paralegal profession; the need for uniform standards for certification and licensing; and the need for delineation of the duties which can be performed by this new profession in any given state, and forthwith. Otherwise, this embryonic profession will fail to achieve its true potential for service both to the legal community and to the public community and will indeed be, instead, a "Frankensteinian monster out of control."

II. DIRECTION AND TREND IN THE UTILIZATION OF THE PARALEGAL

It would appear that more and more law firms are beginning to see the value of the utilization of paralegal personnel as a member of the legal team in a law office.

This "team concept" in a law firm is composed of an attorney, young associate and a paralegal in handling cases, and in some instances, taking the paralegal to court to observe, handle exhibits and take notes. Not in an advocacy role.

Our observation and investigation shows a further trend to use the paralegal in an effort to lower legal fees to those persons who otherwise could not afford an attorney; and to relieve the burden of the various legal clinics and legal services agencies, including but not limited to the public defender's offices.

Here in California, the utilization of the paralegal is extending into the City Attorney's Offices wherein paralegals, both with formal training and in-service training, are being used as hearing officers and legal administrators in an effort to streamline and/or reform the city attorney's office procedures as they relate to speedier disposition of complaints and inter-office management as it relates to more efficiency in the handling of the paper work necessary to speed up the disposition of complaints.

What is terrifying is the trend emerging of paralegals wanting to go into business for themselves. We are beginning to see ads in the papers wherein paralegals are soliciting jobs. Nothing is mentioned about their qualifications or the type of "experience." This concerns us in that the established legal profession does not and is not allowed to advertize for clients and since we want to be a true extension of and a member of the legal team we do not want this type of advertisement. It is unethical and can conceivably cause irreparable harm and injury to a third person, who, not knowing who or what is a paralegal; the legal status or capacity of a paralegal; education or training of a paralegal—calls them to render a legal service. This is one of the main reasons why there should be credentialling; licensing and some type of standards set—to protect the innocent public.

Then there is the present and emerging awareness on the part of industry, corporations, unions in the possible utilization of paralegals in an effort to stop the rise of legal services rendered by the legal profession.

Add this to the interest of the federal government in consumer services and the role the paralegal can play in the area of consumer frauds, class actions or multiple class actions for the benefit of the middle man "Mr. John Q. Public," and one can really see the light at the end of the tunnel.

In school we were taught that law is forever evolving. That it evolves around man, society and its needs. That as the needs of society change, so does the law. Today, our society has expanded beyond expectation. The statistics and scientists advise that it will continue to grow. And that the problems therefore, of our society will increase; hence new laws will be enacted by our legislators to meet this challenge; new interpretations will be rendered by our courts; a new "law of enforcement" and research of those new laws; and the explanation of the procedures to obtain equal justice and representation under these new laws, must of necessity change.

Who will then do all these things?

Who will have the time, the patience to explain, do the paperwork, the routine study and investigation?

The already overworked attorney? His "just graduated from law school" young associate? Or a paralegal, who has been specifically trained and educated to do the job?

This then is the trend and direction into which the paralegal is moving. To be an extension of the established legal profession; the court system; the city attorney's offices; a member of the legal team rendering legal services to the public.

The paralegal profession is here to stay and is expanding as is evidenced by California State Assembly Bill 1814—the Certified Attorney Assistant Act.

The committee study period is ever and the time for concrete definitive action is now.

III. AFFECT OF ACCREDITATION OF TRAINING PROGRAMS—LICENSING ON PARALEGAL DEVELOPMENTS

A. Growth and expansion

It is our feeling that accreditation of training programs and licensing of individuals would insure the growth and expansion of the paralegal profession and the unifying step in making the paraprofessional a true extension of the established legal profession—a member of the legal team.

It is our feeling that accreditation of educational and training programs, with licensing as a paraprofessional the goal towards which one can work, would be an incentive to those individuals interested in entering this new field of law. These processes would give meaning and purpose to the tasks they may already be performing and certainly to those tasks they would be performing on the part of the public in the future.

These processes would also be beneficial to the established legal profession and the public in the following ways:

(1) They would know the calibre of the paralegal seeking employment;

(2) They would no longer be in the dark as to the scope of the duties which could be performed by a paralegal;

(3) They would be more willing to delegate some of the tasks that had heretofore been performed by them; and

(4) The public would more readily accept the service of a paralegal.

It has been my experience that part of the problem in accepting the concept of the paralegal as a part of the legal term has been this lack of knowledge of what the paralegal was being taught; the calibre of the instruction and whether what these individuals were taught was in fact needed by the attorney or the public.

Accreditation would also be a means of control and supervision.

IV. SHOULD INSTITUTIONS WHICH TRAIN PARALEGALS BE ACCREDITED

Yes. But only as to the paralegal studies programs, if this is feasible. We would not want to see this procedure giving carte blanche acceditation to any and all schools, simply because they are offering a paralegal studies program since if they are not already accredited, it may be for good reason having nothing to do with the offering of a paralegal studies program.

However, accreditation of schools offering a paralegal studies program would be a means of insuring uniformity of curricula being offered in the various schools throughout the country. Further, it would act as a deterrent to those individuals attempting to get on the "bandwagon" and franchise schools for profit. In this regard, however, I would certainly hope that the standards for accreditation would be not beyond the reach of the schools located in areas where the need is the greatest but for economic reasons said schools could not meet the accreditation requirements. We feel, therefore, that the process should be a state or local procedure under the control of a licensing or accreditation agency, board or paralegal association in cooperation with and under the supervision of the bar associations, judicial council and/or state supreme courts.

V. SHOULD PARALEGALS BE LICENSED? IF SO, WHO SHOULD CONTROL THE LICENSING IF IT IS DONE?

No. In our view a paralegal should not be licensed; but should have some type of certificate, diploma, etc., indicating the degree or level of training; and/or extent of institutional education received qualifying them to perform in a particular field. In other words, we feel there should be categories of paralegals and attach hereto our proposed definitions of legal assistants and classification of members of our association for your review.

In California we are attempting (by way of Assembly Bill 1814) to use the licensing procedure to distinquish the roles of the paralegal and the certified Attorney Assistant. The main difference between the two is that the CAA will be able to go to court on certain default matters, under the supervision of and at the discretion of the attorney; and the paralegal will be the individual working primarily in the office.

It is our understanding however, that the "public paralegal," though not as well qualified or trained, is presently able to appear before certain administrative agencies advocating the cause of a "client." We have always felt this to be at odds with duties permitted to be performed by the "private paralegal" which do not include appearing before administrative agencies on behalf of a client, despite the fact that the majority of the "private paralegals" are institutionally trained or in-serviced trained in the theory and concept of the law and specially trained to appear before the courts and administrative agencies but are not allowed by statute nor bar association resolution to do so.

To license a paralegal at this stage of the growth of this new field of law would cause a great deal of confusion. Unless and until there is uniformity in training and education for the paralegal; utilization of the paralegal, licensing at this time would not be in the best interest of the paralegal, the attorney nor the public they both serve.

Sincerely,

DEBORAH E. LARBALESTRIER,
Executive Director.

Enclosures.

CLASSIFICATION OF MEMBERS IN THE AMERICAN PARALEGAL ASSOCIATION

Class A Members: Enrollees or graduates of a paralegal program which affords persons the opportunity to acquire the skills previously mentioned by an intensive study of a limited area of the law. Any such program must require at least 150 hours of classroom attendance in a specialized area and other foundation required to provide the adjunct skills of a paralegal professional.

Class B Members: Enrollees or graduates of a paralegal program which affords persons the opportunity to acquire the skills previously mentioned and also a broad exposure to the foundations of Anglo-American jurisprudence. Several areas of substantive legal knowledge and related procedures as well as training in legal research and writing. Any such program must require the completion of at least 30 academic units of which at least 21 must be in subjects dealing with the acquisition of knowledge of substantive law and/or related procedure and the remaining 9 units must deal with legal research and writing, and law office management and/or accounting.

Class C Members: Enrollees or graduates of a paralegal program which combines the elements of the programs discussed under the classification of A and B next preceding by requiring completion of a program as outlined for Class B members and thereafter the completion of a program as outlined for Class A members. In order to be eligible for membership in this class while still a student, the person so applying must upon enrolling in a particular institution offering such a program, be eligible for unconditional admission to such program by said institution.

Class D Members: Practicing paralegals or legal assistants who have achieved a standard of professionalism through education or training other than that outlined in Classifications A, B and C as outlined below:

1. Applicant must have completed his secondary education with grades qualifying him for admission to a paralegal program approved by the American Paralegal Association and/or the State Bar Association of his state or the American Bar Association.

2. The applicant must show evidence of being able to complete a course based on the enrollment standards of approved institutions by one or more of the following:

(*a*) Completing 45 units or its equvalent at the college level with passing grades.

(*b*) Passing a civil service or equivalent professional examination for advancement to a position utilizing techniques outlined in the educational training above.

(*c*) Possessing the criteria for attaining a degree of professionalism as evidenced by licensing or certification by the State Bar or the American Bar Association.

(*d*) Training by one's employer over a period of time that qualifies one to perform legal procedures on a professional standard equivalent to Class A, B, or C members.

The above qualifications shall apply to:

Military Legal Assistant working in the Armed Forces or for the Armed Forces at a military rank or civil service rank that reflects professional ability acceptable to attain membership in the American Paralegal Association.

Governmental Legal Assistants working for the municipal, state or federal government at a rating reflecting professional ability acceptable to attain membership in the American Paralegal Association.

Public Paralegals working for government approved agencies, public legal service organizations or other approved organizations rendering legal service to the public at a level reflecting professional ability acceptable to attain membership in the American Paralegal Association.

In-Service Legal Assistants working for an active member of the Bar or working under the supervision of an attorney and performing legal procedures that reflect the professional ability acceptable to attain membership in the American Paralegal Association.

Associate Membership shall be exclusively composed of the following:

(1) Universities, schools, paralegal associations;
(2) Law firms;
(3) Bar associations;
(4) Individual attorneys;
(5) Businessmen; and
(6) Any other law related individuals or entities, the Board of Directors shall determine and approve by Resolution.

SEPTEMBER 5, 1973.

DEPARTMENT OF CONSUMER AFFAIRS,
Sacramento, Calif.

Statement to be presented to the Committee studying the feasibility of reforming and/or streamlining the procedures of the Small Claims Courts in Sacramento and Los Angeles County.

Our comments directed at the Utilization of Paralegals as the proposed Small Claims Advisors.

Since the overall objective in streamlining the procedures in the Small Claims Court is to:

(1) Make for, and insure speedier trials;
(2) Dispense equitable justice; and
(3) Remove the burden of explaining the court procedures and how to complete the paper work from the presiding judge, bailiffs and marshals; it would appear that a Small Claims Advisor should be an individual thoroughly familiar with, not only the function and procedure of the Small Claims Court, but with

the function and procedures of the Marshal and Sheriff's Offices. But just as important, an empathy for people and their needs.

The above qualifications describe the background, training and education of the paralegal.

The duties of a Small Claims Advisor as we understand the need, would be the following, but not necessarily limited thereto:

1. Work with the Clerk of the Small Claims Court in processing the summons and complaint forms, i.e. completion of forms; filing of the document and delivery to the Marshal's Office.

2. Explanation of procedures for appeal; nature and purpose of the arbitration, if included in the streamlining effort; advantages and disadvantages of said arbitration, if invoked.

3. Work with the Marshal and Sheriff Offices in explaining to the small claims litigant, the procedure for affecting execution of a judgment.

The familiarity with the above referred to duties further qualifies a paralegal (legal assistant) to be a Small Claims Advisor.

Further, it is our understanding that attorneys are not permitted to practice in the Small Claims Court. This being true, it would appear that the paralegal or legal assistant would be best qualified to act as a Small Claims Advisor in the alternative.

The background of a paralegal, or legal assistant, for the most part, is that of a legal secretary (or someone in a like capacity, having been exposed in some manner to law offices and court procedures; or to the general community). And by virtue of the duties performed in such capacity know:

(1) the procedures of the courts and/or related systems;

(2) has developed a rapport and communication with the public second only to the attorney (or businessman) for whom they worked.

They are the ones who have had the initial contact with the public on a new case; explained the procedure; taken in the initial factual situation and have communicated with the client, either by telephone or in person, throughout the tenure of the case proceeding.

Additionally, the paralegal or legal assistant who chose to go to school (or back to school) to study under one or more of the paralegal studies programs being offered in the colleges and universities throughout California, is being taught and trained in the concept and theory of the law, as well as court and related procedures.

These courses are either a four month specialized course in one specific area of the law: or a two, or two and a half year comprehensive course covering all phases of the law. In either event, this would make the paralegal or legal assistant much more qualified to act as a small claims advisor. Their current or previous work experience coupled with additional education and training would make them an invaluable asset to the court and the small claims litigant.

The whole concept of the paralegal or legal assistant is to be the extension of the established legal profession in rendering services to the public. How better to extend the arm of the legal profession than in serving the public in the people's court as a small claims advisor. How better to insure equal and equitable representation for both the plaintiff and the defendant in the due process procedure than by having individuals trained and educated for this specific purpose.

It is an ideal way of helping the legal community serve and render justice to those individuals who cannot afford the services of a licensed attorney, but who need expertise guidance.

You must bear in mind that law is a world unto itself and the terminology is a foreign language to the average layman. The court is a place unfamiliar to them. It frightens and bewilders most people. The average person is not familiar with the technical knowledge or court procedures. He can easily be taken advantage of by someone who has a little knowledge. This lack of knowledge on the part of the small claims litigants could conceivably jeopardize his rights as guaranteed under the due process procedures of the law. Having a paralegal or legal assistant as small claims advisors for both sides would at least be insuring equal representation for both sides.

At the moment, the legal status of the paralegal or legal assistant is in a tenuous position. They are seeking recognition from the State Bar. The California State Bar is looking to the legislature to enact legislation to give the paralegal or legal assistant the recognition they are seeking through licensing and certification based on work experience and education. Then the additional certification as a Certified Attorney Assistant by way of some type of examination yet to be determined.

Therefore, depending on the ultimate definition and delineation of the duties of a Certified Attorney Assistant, the door to acting as a Small Claims Advisor will be closed to them; but would still be opened to the equally trained, equally skilled paralegal or legal assistant should they desire to act in such capacity. Contingent, of course, on the adoption of this suggestion, i.e., utilization of a paralegal or legal assistant as small claims advisors.

The analysis and proposal hereinabove submitted is the result of informal and off-the-record discussions with various members of the American Paralegal Association and members of various paralegal and legal assistant communities in Los Angeles County.

It in no way represents a policy statement of the American Paralegal Association at this point in time.

The Board of Directors of the American Paralegal Association has not had an opportunity to review the "Draft Proposal re Small Claims Reform"; or to discuss the ramifications, positive or negative as it relates to the pending legislation regarding licensing and certification of the paralegal and/or legal assistant. If in fact it effects the same.

It is safe to say, however, that of the individuals polled, there is 100 percent enthusiasm about the idea of being used in this capacity to serve the public in the "People's Court."

DEBORAH E. LARBALESTRIER.

ILLUSTRATIVE EXAMPLE

A comparison of the cost involved in forming a corporation under the traditional approach and the legal assistant approach:

Assume the following:

1. A fixed fee of $400.00 will be charged.
2. The hourly rate for the lawyer is $50.00.
3. If the lawyer were not forming this corporation, he could be serving other clients on other matters.
4. In the first case, the secretary receives $4.00 per hour; in the second case, the legal assistant receives $8.00 per hour.

CASE I—THE TRADITIONAL APPROACH

	Time consumed (hours)	
	Lawyer	Secretary
Functions:		
Interviewing client	1.5	0
Advising and counseling	1.0	0
Obtaining information	1.5	0
Preparing papers	2.0	4
Executing and filing papers	1.0	.5
Total	7.0	.5
Cost (measured by economic input)	$350	$18
Total cost	$368	
Fee	400	

CASE II—THE LEGAL ASSISTANT APPROACH

	Time consumed (hours)	
	Lawyer	Assistant
Functions:		
Interviewing client	0.5	1.0
Advising and counseling	1.0	0
Obtaining information	0	1.5
Preparing papers	.5	3.5
Executing and filing papers	.5	.5
Total	2.5	6.5
Cost (measured by economic input)	$125	$52
Total cost	$177	
Fee	400	

Added income to attorney by fees derived from service to other clients on other matters: 4.5 hours—$225.00.

STATEMENT OF DAVID E. METZ, ASSOCIATE PROFESSOR OF LAW, UNIVERSITY OF MASSACHUSETTS/BOSTON

I write as the Director of a Program to train paralegal personnel and as the Chairman of the Organization of Paralegal Educators, a national association of program directors and teachers. I will address my comments to the question of the impact of accreditation on educational programs, and the significance of that impact for the paralegal movement.

Education programs for paralegals have been operating for only a very few years, and such programs based outside law offices are no more than four years old. Indeed, the concept of the paralegal is itself new and is used with a wide variety of meanings. The Subcommittee will hear from others about the importance of the paralegal for delivering legal services. I wish to stress only that the range of possible roles for the paralegal grows every day.

It is this very inventiveness about the uses of the paralegal that make the movement potentially so powerful. From law offices, to courts, to drug programs, to arbitration programs, to court diversion programs, to parole and probation, to grant administration, the list goes on and grows daily. And education programs need to be responsive to this evolving need. One key point in planning any paralegal training program, therefore, is flexibility. It must be flexible regarding the changing market for paralegals. It must be flexible regarding new definitions and roles for its graduates. And, perhaps most fundamentally, it must be flexible regarding the method of education appropriate for the paralegal. A conference of paralegal educators in May of this year produced a clear message: There is a need for innovation in educational method.

The flood of uses for the paralegal suggests that we may be witnessing the birth of a new professional, limited neither by notions of sophisticated clerkdom (as some would have it) nor by the educational rigidities of law school. Thus, neither the case method, nor the business law lecture, nor the civics class survey are adequate to the educational task of preparing people for an emergency role in delivering services. No thoughtful educator pretends to have all, or even most, of the answers, but innovation is beginning to bloom in programs around the country. And if the paralegal movement is to be fostered, this is essential.

And now we hear talk of accreditation. It could hardly be more ill-timed. The history of accreditation, as told by its own practitioners, has been to stifle and channel educational programs, to mold curricula to both the explicitly criteria published by the accrediting agency and to the implicit expectations emanating from the nature of that agency. With the best of intentions, accreditation is a negative influence flexibility and innovation. And the intentions are not always the best.

It has been argued, by the American Bar Association, Special Committee on Legal Assistants, that accreditation is needed to protect the unwary student from incompetence and fraud in educational institutions, and to guide employers of paralegals in heir hiring. It is also argued that the ABA guidelines for accreditation are sufficiently broad to allow innovation. Both, unfortunately, cannot be true. The guidelines are indeed broad, so broad that many a charlatan organization could qualify and still cheat the customers. And as has been recently demonstrated by crack downs on private vocational schools in Massachusetts, adequate laws are now on the books to protect the unwary. For example, there is the minimum requirement of 60 credit hours. For some paralegal training this is sensible. For some, which require much less training to be done effectively, the requirement constitutes a barrier to entrance and to performance; it requires that classic error of the professions, overtraining. It means that only those who can afford the money and time of 60 credit hour that education can enter the paralegal field. A further example is the use of the credit hour as the standard of measurement, at a time when several programs (mine among them) are eliminating the credit system in favor of a competency based method. The competency system is an important frontier in paralegal educating, and is funded in part by the Fund For the Improvement of Post Secondary Education, yet it would run afoul of the ABA guidelines.

The point, here, however, is not to attack one guideline, or even the ABA guidelines themselves. Their failings most often (though not always) are the failings of any guidelines. Those failings are inherent inevitable in the accreditation process.

My conclusion, therefore, is that accreditation is totally out of place at this time in the history of paralegalism and paralegal education. It will of necessity force educational decisions for which we do not now have (anywhere near sufficient experience, and will cut off our access to that experience; that is, it will require us to make irresponsible decisions.

Is it therefore advisable to do nothing at this time? I think that there are some steps, substantially short of accreditation, which make sense now. Much work has been done by the ABA Special Committee on Legal Assistants on surveying the field of paralegals and their education. Most of this work, unfortunately, has relied on questionaire and surveys and conference conversation, and only rarely has there been an in-depth study of individual programs. As educators know, however, such depth is necessary if real understanding of the nature of education is to be determined. I suggest, therefore, that an adequately funded Task Force be appointed, perhaps working out of the National Institute of Education, for the purpose of doing in-depth monitoring of paralegal education for a period of three years. Such a Task Force would be composed of attorneys, legal educators, paralegal educators, paralegals, consumers, and public administrators (since many paralegals work for public administrative agencies).

It would analyze and report in detail on what is really happening in paralegal education and make recommendations concerning:

(*a*) The characteristics of the most successful educational programs.

(*b*) The best way of supervising such programs, whether that be accreditation or some other, and who should do that.

(*c*) The strengths and weaknesses of the various institutional bases of such programs, including junior and community colleges, four years colleges, proprietary institutions, on-job-training programs, continuing education programs.

(*d*) And the most productive relationships between the educational programs and the organized bar.

In the event that the urge to accredit programs now proves irrestable, I would like to suggest that the Subcommittee consider who might best do that. More pointedly, I would like to suggest that it is strikingly inappropriate for the American Bar Association to have the task alone. There are two reasons. First, the job requires educators, paralegal educators. Not only paralegal educators, but others as well. The job requires, in decision making positions, much the same group I proposed for the Task Forces above. That is, representatives of the bar, legal educators, paralegal educators, paralegals, consumers and public administrators. Trere being some difference (between the public and private law firms.) There should be one respresentative of each. The ABA in its committee work, and elsewhere, has made clear that it is nominally willing to listen to the opinions of others, but unwilling to share authority with anyone. Yet it lacks breadth of experience and skill needed to do the job.

The second reason for excluding the ABA from exclusive control of the paralegal accreditation is that this would represent a conflict of interest. Though it is accurate that many paralegals will work for attorneys, it is also true that, used properly in law firms and public agencies, they will be able to provide legal service better and cheaper in many fields than can many lawyers. Many lawyers already, and quite properly, see paralegals as competition. They should hardly, therefore, be permitted to regulate that competition. And since the educational programs will increasingly become the gateway to the profession, control of accreditation become crucial for control of the personnel in the paralegal profession.

This leads naturally to a consideration of licensing of paralegals, about which I will make only a few comments. Given the unformed, shifting condition of the paralegal field, it is inconceivable that any procedure could be devised which would adequately test and screen for the full range of people who should be designated paralegals. Licensing at this stage would, like accrediting, mold and if controlled by the bar-stiffle, a budding development which could over time change drastically and for the better the way legal services are delivered. The quality of work will always be protected by the supervising attorneys, members of the bar, and by the courts. A new licensing machinery would add new governmental work and friction which would be counterproductive and unnecessary.

STATEMENT OF JOHN SCOTT PRICE, COORDINATOR OF PARALEGAL DEVELOPMENT, COMMUNITY ACTION FOR LEGAL SERVICES, INC.

Mr. Chairman, I am pleased to have this opportunity to report my findings on paralegalism to the Committee. In fact, this occasion permits me to pause for a moment, step back from the activities in which I am and have been involved, and critically assess the work which I have done in the past two and a quarter years.

My formal work in paralegalism began in April, 1972, with my assignment as a VISTA volunteer to the Legal Aid Society of Westchester County, New York. I investigated aspects of poverty-law in which paralegals can take an active part, developed training programs to meet consequent job descriptions, deivsed various paralegal/attorney working models, and monitored paralegal activities.

This work prepared me well to serve the Community Action for Legal Services (CALS) corporation in New York City in the capacity of Coordinator of Paralegal Development. I have held this position since June of this current year.

My work first as a paralegal and now as a paralegal coordinator or manager provide me with an unique opportunity to observe legal services needs of paralegals and paralegal functioning in response to those needs.

PARALEGAL JOB DESCRIPTION

Two particular elements of a legal services operation, i.e. high turn-over among professional staff and extreme caseload pressures, create special office needs for paralegals.

The high turn-over of the legal services professional office staff seems endemic among legal services offices. While a private law office may expect associate attorneys to serve in the office for a minimum of five years, five to ten years is probably the maximum number of years which legal services attorneys dedicate to poverty law practice. Given the level of legal services funding and the unstable state of legal services legislation, the high turn-over rate among professional staff is not suprising.

The turn-over rate of clerical and para-professional staff in legal services offices is often slower than the rate for professional staff, creating an odd situation in which the professionals lack the seniority, skills, and knowledge which the clericals and paralegals have built up over a period of time.

The caseload pressures of the neighborhood legal services office is tremendous. From what I can understand, most offices average between one and five new cases taken in for each attorney for each working day throughout the year. Such heavy caseload pressures barely give one time to think, and can create serious hazards in one's attempts to deliver the highest quality legal services to all clients.

The neighborhood legal services offices tend to cope with this kind of caseload pressure in one of several ways. First, the office can restrict the intake of new cases. This regrettable step provides quality legal services for the office's clients, yet provides no legal services for the excluded applicants. Second, the office can restrict the kind of new cases taken in. Only cases with great social impact are served, while individuals with individual and private matters are excluded. Third, the office can employ paralegals to increase the availability of legal staff and deliver quality legal services to great numbers of clients without any decrease in the quality of legal services delivered.

A particular legal services office defines the paralegal job description to meet the office's needs for person-power, maximizing the available attorney legal support for the paralegals. If the activities of an office can be envisioned as a pyramid, with the base being the kinds of cases taken in and the strata being the activities performed or done for the cases, then the job slots or descriptions fall into two major categories. First, a paralegal may be instructed to perform a variety of functions for a category of clients. Second, a paralegal may be instructed to perform a specific function for all categories of clients.

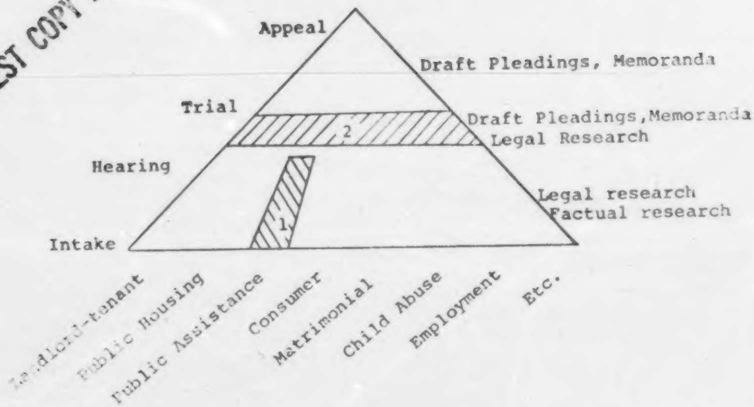

FIGURE 1.—Two sample paralegal job descriptions meeting neighborhood legal services office needs.

Figure 1 illustrates a job description for each of the two kinds of paralegal deployment patterns most frequently used in legal services operations. The first kind of job description, i.e. variety of functions for a category of clients, is illustrated by a job description wherein the paralegal meets public assistance recipients or applicants, does the factual and legal research necessary to represent the client at a Fair Hearing, and either represents the client at the hearing or assists the client in his or her own pro se representation at the hearing.

The second kind of job description, i.e. specific function for a variety of client categories, is illustrated by a job description wherein the paralegal does advanced legal research and drafts pleadings for all civil trials.

BENEFIT OF PARALEGAL USE

Several benefits logically result from the extended use of paralegals in a legal services office. Normally, such benefits are only "emotionally" or "intuitively" felt and discussed. However recent investigation by people interested in paralegalism, including myself, begin to sketch statistical support for claims of benefits.

The Legal Aid Foundation of Long Beach, California, computed some rough cost-effective statistics of paralegal use. Marc Lerner, of the Foundation, reported the following data regarding an operation in which attorneys and paralegals were used to maintain a caseload of public assistance recipients and applicants.

TABLE 1.—SAMPLE COST-EFFECTIVENESS STATISTICS OF PARALEGAL USE

	Attorney	Paralegal
Total 12-mo. cost	$14,069.85	$7,895.74
Percentage of time invested on fair hearings	40	65
Cost of time invested on fair hearings	$6,331.43	$5,132.23
Fair hearings attended	35	55
Cost per fair hearing	$180.89	$93.31

Initially, I "intuitively" or "emotionally" believed that use of paralegals could provide a cost-saving of between a quarter and a third of an attorney's salary. The Foundation's figures, however, show a greater cost saving than I thought possible. Those figures are taken from an individual project, and may not be representative of paralegalism as a profession. Yet I am fairly optimistic that at least one-third of an attorney's salary can be saved if a paralegal can work effectively in a responsible job description.

Not all legal services operations are able to use paralegals, perhaps, because of their caseload structures and internal management policies. However, it now seems safe to anticipate a saving of one full attorney salary for every three paralegals hired.

The savings for most programs is considerably greater, now, because many of the current paralegals are not hired by the neighborhood legal services offices. I guess that more than half of the paralegals are administratively and legally supported by the neighborhood offices, but the salaries originate elsewhere, e.g. VISTA/ACTION, contributions of staff from other groups and organizations, etc.

Any plan of paralegal use and deployment must include office administration and legal support. Lack of support makes paralegals nervous, and distributed information may take the form more of "what ought to be" rather than "what is." I recorded some data on a paralegal program of my design to measure the amount of administrative and legal support which is required for an effective paralegal program. The data was collected from a landlord-tenant paralegal group which was supported by one attorney. The attorney was always accessible to the paralegal group for consultation and litigation. The group was composed of one senior paralegal who acted as "office manager", one full-time junior paralegal, and three part-time paralegals. The quality of service by the group was such that the local court referred cases to the group and recognized the paralegals as having appropriate knowledge to assist tenants in their own *pro se* representations.

The following data was kept during the "slow season" for the landlord-tenant group, i.e. August to November of 1973. The data is an attempt to determine how information flowed between the paralegal group and its supervision. A total of 139 cases were taken in during the period, yet 35 were rejected for various reasons, leaving a total caseload of 104.

Not included in the data is the time and effort exerted in the initial intake interview with each client. Excluding the 15–30 minute intake interview from the data gives a more accurate picture of what paralegals did on a client's behalf and what supervision they received in the process.

TABLE 5.—SAMPLE RESOURCE DEDICATION AND INVESTMENT FOR A PARALEGAL/ATTORNEY OFFICE

	Paralegal activities, to or on behalf of client				Supervision—			
					By senior paralegal		By supervising attorney	
	Personal contacts	Telephone calls	Letters	Legal research	Advice	Work	Advice	Work
Number of cases in which activity occurred	104	83	23	27	44	30	21	4
Percent of cases in which activity occurred	100	80	22	26	42	29	15	4
Number of incidents	202	191	....	....	91	66	34	9
Average number of incidents per case [1]	2	2.4	....	....	2.1	2.2	1.5	2.2
Total time (hours) for all incidents [2]	70	34	....	26	25	26	11	4
Average time (minutes) per case [1]	41	25	....	6	34	52	30	62

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[1] In which incidents occurred.

[2] Excluding 15–30 minute intake interview.

These data and other data which I have collected on various paralegal programs are just a beginning to understand how paralegal/attorney relationships ought to function. The message I receive from the data is clear: given detailed and constructive job descriptions and appropriate attorney supervision, paralegals can be a highly effective element in the delivery of quality legal services. One of the major tasks currently before the people who investigate paralegalism must be to devise a multitude of paralegal/attorney models in which paralegals do what paralegals do best and attorneys do what attorneys do best.

Before I became involved in paralegalism, I worked with computing systems at Cornell University. One of the projects I worked on was called "computer aided instruction." The goal of the project was to isolate out of the teaching profession those tasks and activities which are purely mechanical and can be done by computers and other machines better than by people. Removal of the mechanical elements of teaching permits an educator to concentrate on the purely personal aspects of the profession. The project demonstrated that effective use of such a system can provide an educator with 4–10 hours each week of time which he or she can spend with individual students, while machines are performing the mechanical tasks involved in learning and teaching.

I am convinced that use of paralegals, in a creative environment, can "free up" immense amounts of time for attorneys to spend in concentrating on what attorneys are skilled and educated for, i.e. practice law.

REGULATING PARALEGALS

I am not familiar with any large scale demand by paralegals working in the field of poverty law that paralegalism should be regulated. Neither am I familiar with any demand by legal services paralegals to avoid regulation. The emphasis for regulation must come from elsewhere, therefore. The impact of external regulation on a developing profession can have profound effect.

Professions do not need to be regulated. Most of the professions of which I am aware, e.g. law, medicine, and many trades as well, e.g. plumbing, carpentry, began without regulation. The professions and trades developed and matured, recognizable standards were achieved before regulation was attemped.

Paralegalism, however, has not achieved or established such standards. Indeed, little is known about the field at all. While there seems to be considerable discussion of regulation of the profession, there seems to be little investigation of the field. The Long Beach Foundation study, a current survey being conducted by the National Paralegal Institute, and my own work seem to be the only concerted efforts to study the field of paralegalism and assess the levels of achievement which may be possible. Paralegalism, therefore, does not exist; this seems an odd foundation from which to try and regulate it.

Regulation, generally, is a code describing the minimum qualifications and maximum authority which regulated people must work with. Lacking reliable data on what paralegals currently do, it seems impossible to discuss what they ought to do.

While I discourage any current attempts to regulate paralegalism until more data is available, I am eager to consider the assumptions or forms which such regulation ultimately may take. The first matter to consider is who or what will benefit from the regulation of paralegalism.

Clearly, the general public must benefit from the regulation of a profession. The public assumes that such regulation will provide better services and this public trust may not be betrayed.

The regulated professionals must also benefit from the regulation. Regulation should reward excellent practice and discourage or punish incompetent practice. Regulation must provide some form of security for the professionals, yet not violate public confidence by creating a monopoly or an elitism.

Since most of the current discussion of regulating paralegalism is being held outside of the profession, one must consider how the regulation will affect the areas in which regulation is being considered.

The following diagram concludes my impressions of the groups or people who may benefit and suffer from regulation of paralegalism.

TABLE 3.—AFFECT OF REGULATION ON INVOLVED GROUPS

Group or individual	Benefits derived from constructive regulation	Hardships suffered from abusive regulation
The public generally, clients specifically.	1. Standards of quality service maintained.	1. Monopoly or elitism created which excludes social responsiveness.
	2. Bring profession closer to people's needs.	2. Create myth which only professionals can understand.
The professionals, paralegals.	1. Provide career training and advancement.	1. Develop elitism within profession which discourages advancement and independence.
	2. Create a forum for developing thought; strive for higher awareness.	2. Exclude reform or introduction of new thought and action.
	3. Reward quality service, discourage shoddy performance.	3. Abide by regulations rather than seek to improve service.
The regulators.	1. Enhance delivery of legal services.	1. Lose valuable development by subugating professionals.
	2. Develop closer contacts with community.	2. Exclude public intrusion into profession.
	3. Create more staff positions: more clients can be served.	3. Restrictions can keep available staff minimal—fees remain high and services remain inaccessible for indigents.

ENFORCEMENT OF REGULATION

Assuming that regulation of paralegalism is desirable, there is one circumstance which is to be avoided more than no regulation at all, i.e. regulation which does not provide benefit and rather imposes hardships for the public and for paralegals. As described above, poverty-law paralegals are largely "invisible" because of the lack of data on the profession. Restrictive regulation will cause paralegals to become "more invisible." Poverty law paralegals operate without regulation now, and must receive benefit from the regulation in order to abide by restrictions. Advanced "invisibility" of paralegals created by their dislike of a regulatory system will make enforcement of the regulation impossible.

Another matter which may be an appropriate topic for discussion of paralegal regulation is the nature and profile of typical legal services paralegals. This profile includes people who work in legal services offices, and the people (numbering in the hundreds of thousands likely) who dispense legal or quasi-legal services from store fronts, churches, schools, and the like. The aim of regulation is to provide better legal services, and it does not make sense to define the population of paralegals merely along lines of employment. "Paralegal" may be more a description of what somebody does rather than what one's job title or place of employment may be. A rabbi or priest who helps a member of a congregation obtain a lower bail or bond fee is acting in a legal or quasi-legal capacity, albeit the informality of the pleading. A day-care social worker who forces a landlord to replace lead-base paint with nonleaded paint through the use of code enforcement authorities is acting in a similar quasi-legal capacity. While the career advancement aspect of regulation may not be needed in such instances, other aspects of regulation (e.g. continued training, forum for developing thought, etc.) are of great concern for such poverty-law, nonlegal services paralegals.

In this environment, it is not obvious that attorneys should control the regulation of paralegalism. Certainly for the regulatory system to be credible to attorneys, the bar must be confident that paralegal regulation satisfies certain standards.

Perhaps paralegalism could be viewed as a trade or a guild, so public, rather than professional, control should be the goal. Since poverty-law paralegals are community-oriented, perhaps poverty-oriented groups and agencies should regulate the profession, e.g. the Department of Health, Education, and Welfare. Alternatively, since education and training seems to be the "seed" from which all paralegal practice springs, perhaps local or state educational systems could control the regulation.

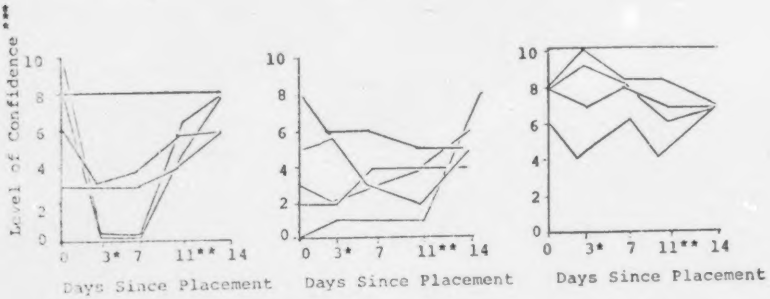
SAVVY

One of the reasons why regulation of paralegalism seems so distant to me is the inability to quantify the one particular quality of a paralegal, or an attorney, which permits that person to operate well within the field of law. The quality I refer to is "savvy." This particular quality comes to an attorney or paralegal after years of activity, and that quality, more than any other, marks the person as exceptional in the profession.

It has only been within the last year and a half that I have understood how to teach "savvy" and thereby avoid months or perhaps years of unpolished paralegal activity. Teaching "savvy" is a two-step process. First, one must enhance a trainee's general ability to act responsibly and effectively in a social environment. Second, one must add the tools of law to the trainee's assortment of previously learned tools which can be used to resolve human misunderstandings.

Most law schools, even ones with advanced clinical programs, do not have a firm idea of how each graduate will practice law. Paralegal training, in the form which the National Paralegal Institute, I, and others adopt, teaches law and methods of legal practice: These together constitute "savvy." Quality legal services delivered by graduates of such training programs is highly likely, inasmuch as the needs and abilities of individual trainees are enhanced and are carefully monitored. Paralegal job descriptions are then refined to take best advantage of an individual's achieved abilities and skills.

It is one matter to teach "savvy," and yet another to quantifiably judge or evaluate it. One method with which I experimented to try and quantify "savvy" involved a survey, completed by paralegals during and after training, which measured the trainees' confidence which they felt in being able to apply new skills and knowledge. The survey results were later combined with an objective statement of attorneys who supervised the paralegals of the paralegals' legal abilities.



Interviewing Client
Assessing Legal Problem

Negotiating for Client

Working in
Law Office

*Training began on day 0; paralegals were introduced to office assignments on day 3.

**Special training was completed on day 11; paralegals began work in office assignments.

***Levels of Confidence indicate low confidence (low score) to great confidence (high score).

FIGURE 2.— Sample confidence scores for paralegals durng and after training regarding specific legal skills.

Unfortunately, this experiment was terminated before the opinion of the supervising attorneys was gathered. Yet the data which was collected indicates that the training had a sobering effect on most paralegals, and that the confidence was regained by the end of training and beginning of paralegal activity.

This survey is inconclusive, of course, and is merely added to my growing file of partial paralegal surveys. These surveys, individually, provide a smattering of information about paralegals. Yet taken together, the surveys begin to sketch an accurate profile of paralegals, job descriptions, training methods, and attorney/paralegal working relationships.

VILLA JULIE COLLEGE,
Stevenson, Md., July 11, 1974.

Hon. JOHN V. TUNNEY,
Chairman, Subcommittee on Representation of Citizen Interests, U.S. Senate, Washington, D.C.

DEAR SENATOR TUNNEY: Thank you for your kind invitation to me to present a statement on the Paralegal Program to your subcommittee. I should say at the outset that I am the Director of the legal assistant program at Villa Julie College, Stevenson, Maryland, however, my involvement in the program is secondary to my practice of law. My view of this new profession, therefore, is more from the perspective of an attorney than of an educator. My comments will be confined to the questions set forth in your letter of July 1, 1974.

The first matter to be considered is whether or not there is a need for paralegals or legal assistants. Can their potential place in the legal community be taken by law school students and young lawyers? Or, put another way, will paralegals remove opportunities for employment and experience from law school students and young lawyers? It seems inevitable that the answer to this last question will be affirmative at least to some extent. However, unless the need and demand for lawyers ceases, which hardly seems likely, it seems equally inevitable that the legal community, including law firms, government, and business, will of necessity continue employment opportunities for law school students and young lawyers.

It is my firm belief that paralegals will rapidly become as useful and necessary to the legal community as nurses and paramedics are to the medical community. In law firms, it is becoming increasingly difficult, from a standpoint of economics, for many work functions to be performed by an attorney. At the same time, because of the constant retraining necessary as law school students and young lawyers advance to higher responsibilities, law firms are sometimes hesitant to have these work functions performed by persons in that category. The impact on cost and availability of legal services, especially to the lower and middle classes, seems obvious if basic legal services can be performed proficiently and economically by properly trained paralegal personnel who would be more permanently associated with the law firm.

However, employment opportunities for paralegals, with resultant benefits to the general public, extend beyond law firms. I would expect government agencies, federal and state, eventually to become substantial employers of paralegals. I would envision paralegals filling positions for which attorneys are overeducated, and which are filled by attorneys only until such time as a better employment opportunity becomes available. I believe paralegals will also fill various new positions which will be of benefit to the public. To cite just one example, I would think it would be of great value for a person with a broad overall legal training to be available for purposes of interview or initial guidance or counseling in such organizations as Legal Aid Bureaus, where early recognition could be made of legal problems in many areas such as consumer rights, landlord-tenant disputes, domestic problems, and the like.

It is also my firm belief that accreditation is vital to the integrity of the program. It is obvious that a poorly-trained paralegal could do the same harm to the program and to the persons affected by it as an unqualified paraprofessional or technician in any other field. To again draw an analogy with the medical profession, it would no more make sense to allow persons to simply assume the designation "paralegal" or "legal assistant" than it would to allow a person to simply assume the designation of "nurse" or "paramedic."

I perceive a trend away from the bar examinations, at least in terms of emphasis, in favor of stricter standards in law schools, with respect to accrediting of attorneys. In keeping with this trend, and for other reasons as well, I believe accreditation for paralegals should be at the institutional level rather than on an individual basis. Rather than separate examinations or licensing of paralegals, I would strongly favor approval or accreditation of the school and the program offered by the school. As you know, the American Bar Association has promulgated guidelines for such approval and I believe implementation of these guidelines, with some general supervisory involvement of the local bar associations, would be adequate.

On behalf of Villa Julie College, I wish to commend your Subcommittee for its study of availability of legal services, since such services are vital to the achievement of the goal of justice for all persons.

Very truly yours,

FRANCIS X. PUGH,
Director, Legal Assistant Program.

STATEMENT OF RICHARDSON WHITE, JR., PRESIDENT, BLACKSTONE ASSOCIATES

Mr. Chairman and members of the subcommittee; my name is Richardson White, Jr., and I'm the President of Blackstone Associates, a research and consulting firm based here in Washington. While our professional interests encompass many issues concerning the administration of justice, we have had a special interest in the development of paralegals in the public sector. This includes two projects for OEO's Office of Legal Services and a report to the Law Enforcement Assistants Administration on the use of paralegals throughout the criminal justice system. We are currently preparing a manual on the use of paralegals in prosecutors' offices in cooperation with the National District Attorney's Association.

I will seek to summarize what we believe is significant about the use of paralegals in the public sector, and in light of that experience, will give you my reactions to issues which are of particular interest to the subcommittee, mainly, the accreditation of training programs for paralegals and the licensing of individuals as paralegals.

THE STATE OF THE ART

We have encountered no legal services office, public defender's office, or prosecutor's office, which makes use of paralegals in the extensive and highly sophisticated fashion that we have come across in a few private law firms. However, the paralegal concept is infectious and is rapidly taking hold in the public sector. It is our impression that this process is furthest advanced in prosecutor's offices, but that may be simply a function of our current work with prosecutors; were we to look at legal services projects today, I am confident that we would find them using paralegals in a far more extensive and creative way than when we last observed such offices a few years ago.

I can safely leave it to others to describe the extraordinary efficiencies that the rational use of paralegals can bring to a law office. I would only make these two observations about the relationship of paralegals and efficiency, or productivity, in public law offices:

First, most of these offices have the optimum conditions for the effective use of paralegals. They are called on to service a very high volume of what are basically very similar kinds of legal matters. In consequence, they are ripe for routinization, standardization, specialization—and delegation of a considerable amount of lawyers' work to paralegals.

Second, while the cost of legal services in the private sector is quite properly of public concern, the public and its elective representatives should be no less interested in insuring that legal services paid for with tax dollars are delivered efficiently and productively.

A particularly interesting use of paralegals in the public sector is not so much towards the objective of efficiency as toward the goal of improving the quality of the legal services offered. For example, public defenders are not required, as a general rule, to offer post-conviction services to clients. However, in a number of jurisdictions, the Public Defender's Office has extended its services to assist clients who have been convicted of crime, and they have been able to do so very largely because they employ paralegals to perform much of the work involved. Similarly, many prosecutors are greatly expanding the public services they perform in protecting consumers from business frauds, and once again the use of paralegals makes this expanded service possible. I submit that this trend in the use of paralegals cannot help but improve the quality and effectiveness of legal services rendered by and for the public.

WHERE THE PARALEGALS COME FROM

In the public and private sectors alike, the term "paralegal" connotes a new recognition, and an accelerated use of, a kind of manpower that has actually been around for many years. It is a commonplace observation that many of the most effective paralegals are in fact very experienced legal secretaries, investigators, and clerks, who have simply learned to undertake more responsible jobs as they grow increasingly familiar with the work that their attorneys perform. In that respect, the paralegal phenomenon has been observable in the public sector probably as long as in the private sector.

Many of the "new" paralegals we have observed simply represent a speed-up of that evolutionary process. For example, the King County—Seattle Prosecuting Attorney's Office has established a paralegal unit consisting of a number of former secretaries in that office.

Yet a considerable number of the paralegals we have seen represent new recruits to the offices in which they work, and were not graduated out of the secretarial ranks. Relatively young college graduates fill the paralegal positions in the United States Attorney's Office in the District of Columbia; law students perform similar duties in the State's Attorney's Office in Baltimore City, Prince George's, and Montgomery Counties in Maryland; ex-offenders have worked successfully in assisting attorneys in the Seattle and Washington D.C. Public Defender's Offices; many community residents holding no more than a high school degree have been trained to become effective lay advocates employed by a number of legal services programs.

It is our general impression that most of these paralegals have appropriate background and skills for the jobs they are asked to perform. What I mean to indicate here is that we have observed a very wide variety of jobs, all subsumed under the rubric "paralegal". This is perhaps illustrated in the following two examples which are taken from a Public Defender's Office in a large city:

The first paralegal was a high school graduate who had spent many years behind bars. Although the office has the services of a number of law student investigators, often those investigators were unable to locate elusive witnesses. The paralegal had extraordinary skill in meeting that need. He also showed inventiveness in helping the attorneys develop a number of their cases, and he was frequently helpful in communicating with clients and witnesses in a way that the middle class attorneys were unable to do.

The second paralegal we observed was a college graduate who worked with clients of the Public Defender's Office who had already been convicted and incarcerated. One of the services he performed for them was to help them clear up so-called "detainers"—typically pending charges in other jurisdictions—which prevented them from getting parolled or released into community based corrections programs. In working on these detainer problems, the paralegal had to get a very thorough understanding of the client's present conviction as well as the nature of the outstanding charge in the foreign jurisdiction. He then would call the prosecutor in that jurisdiction and seek to arrange a disposition of the outstanding charge, either by its being dismissed altogether or by the client standing trial or entering a guilty plea in the case. These involve delicate, lawyer-like negotiations. The paralegal's work in this area was of course reviewed by his supervising attorney and was subject to the client's approval. But his work was so highly regarded in the office that he was considered a virtual colleague of the attorneys in respect to this one specialty area.

The two examples point out the enormously disparate range of skills required by differing paralegal jobs. Neither of the paralegals cited above could have performed the other person's job very well. Nor would either one of them have been particularly suitable to hold a paralegal job that requires a conscientious and meticulous temperament in handling a high volume of paper work. Another way of commenting on those two roles is that, to fill such positions elsewhere, I would recommend that the first one be recruited among ex-offenders who demonstrate an interest in working with people charged with crime and who display a verbal fluency in the language of the streets. In recruiting for the second position, I would focus in on college graduates who demonstrate a mature empathy for offenders and who also show evidence of having the verbal and conceptual skills of a lawyer.

By and large, then, the heterogenous recruitment and selection pattern we have seen is a healthy one. The one change that I would anticipate occurring more and more in hiring paralegals for the public sector is the increased use of graduates from junior and community colleges who have specialized in paralegal studies. It is our general impression that many of the jobs which have been developed by law students and other college graduates end up settling down into something of a routine, and no longer require job-holders with a more advanced formal education. When that occurs, it would seem sensible to have their replacements recruited from the community college ranks. Not only is there the promise of a better match-up between the Associate of Arts degree-holder's skills and his job, but there is also an increased likelihood that such paralegals will make a more-or-less permanent career in that office—and thus add a measure of continuity sorely needed in public law offices.

Incidentally, virtually all of the paralegals we have seen have had no specialized training prior to taking their jobs. Two exceptions to this rule, paralegals working in the Philadelphia District Attorney's Office who are graduates of the Institute for Paralegal Training were essentially indistinguishable from their colleagues who lack such training.

I certainly would not argue that specialized training and education for paralegals, either before they assume their jobs or while they are working, is inappropriate. On the contrary, most of the paralegals we have seen could use more training, and this should also include much more training for their attorneys in the use of paralegals generally. However, I am not convinced that mandatory, standardized, pre-service training and education in a junior or community college is an appropriate response to that need. This leads to my overall conclusions.

CONCLUSIONS ON THE PROPOSALS TO ACCREDIT PARALEGAL TRAINING INSTITUTIONS AND TO LICENSE PARALEGALS

I am not now familiar with any community college curriculum designed to prepare paralegals for work in legal services programs, or in prosecutor's or defender's offices. Thus it is premature at best to consider accrediting such schools, paralegal programs if it is thought that they bear any direct relationship to the delivery of legal services in the public sector. Conversely, accreditation of curricula explicitly designed for the training of legal assistants in the private practice of law may inhibit unaccredited experimentation in developing much-needed, counterpart programs for public service paralegals.

Others can speak more knowledgably than I on the rationale for accrediting vocational education programs generally. But I would certainly question applying the accreditation concept to a new educational field which has thus far totally missed a large, important and distinct sector of the employment market to be served. And, as my illustrations have sought to demonstrate, many (although certainly not all) public service paralegals perform quite different kinds of jobs than their private-practice colleagues—they cannot be prepared for their jobs with warmed-over adaptations of courses on probate procedures, divorce practice or draftmanship of personal injury interrogatories.

The same may be said with even greater force in respect to the licensing of paralegals: the private-practice model of a "good" paralegal has only limited applicability to the public sector, and if he alone is to be permitted to practice his paraprofession, the public sector will be deprived of an array of nonlawyer assistants who are badly needed and are eminently useful. In this respect, the licensing procedure would not only limit job opportunities for many people otherwise qualified, but it would ossify the trend towards improving the productivity and quality of publicly-supported legal services. It is as if hospital administrators were permitted to hire only two classes of workers—licensed M.D.'s and paraprofessionals who are licensed graduates of accredited nursing schools.

We know that the health paraprofessions encompass a far more heterogeneous mix than just nursing. We are learning that an analogous mix is emerging in the public practice of law. For all the benefits one may attribute to accreditation and licensing, it worries me that these may be applied to help formalize and mold a single class of workers when we are just at the stage of discovering how diverse a range of workers, all fitting under the paralegal rubric, is needed. I hope, therefore, that the legal and educational communities will proceed with extremely deliberate speed in formulating paralegal accreditation and licensing procedures.